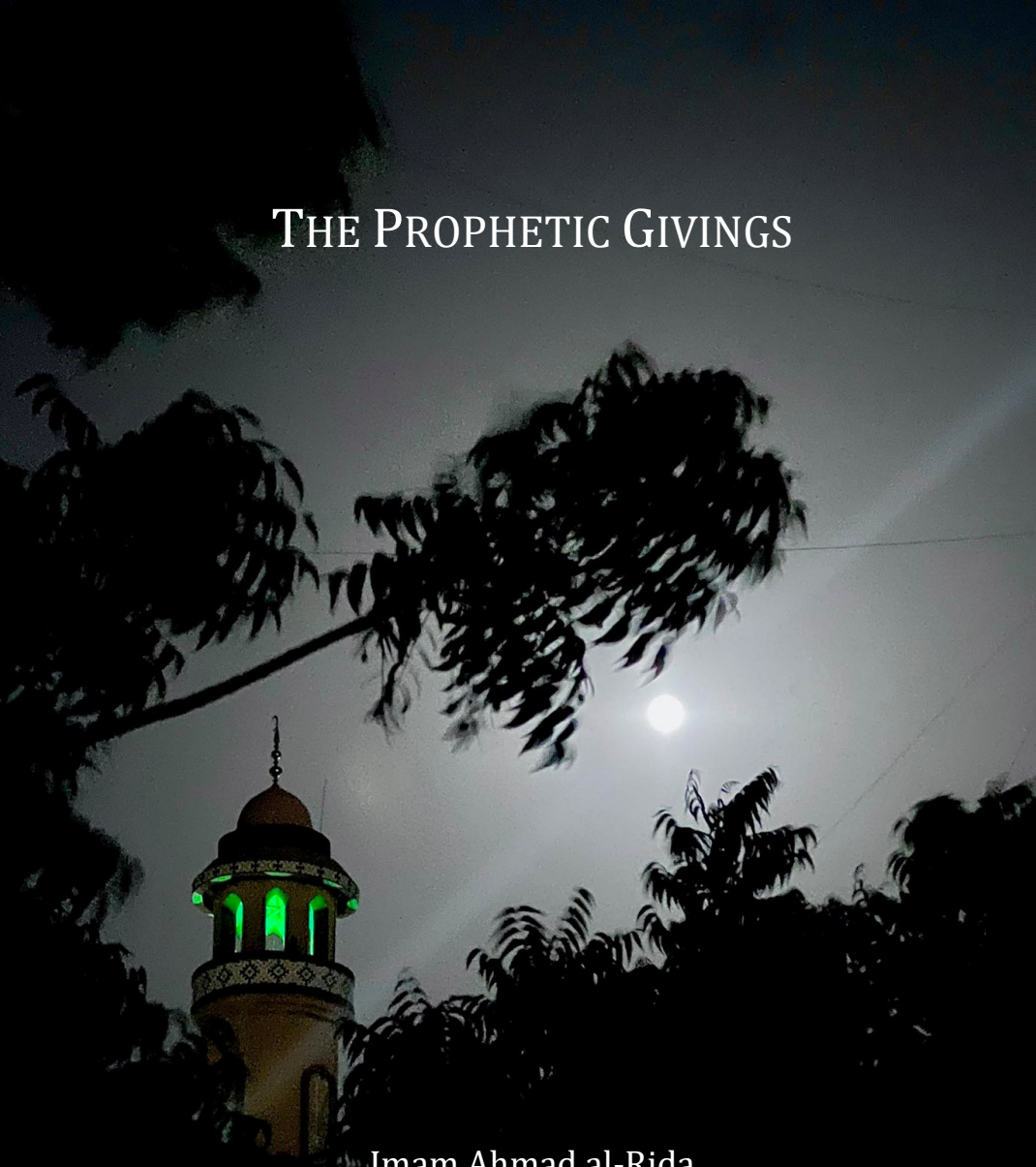
The Prophetic Givings



Imam Ahmad al-Rida

RESEARCH NETWORK

THE PROPHETIC GIVINGS

IN THE FATWAS OF AL-RIDA

Imam Ahmad al-Rida

Translated, edited and summarized by

Obaid-ur-Rehman

Research Network · Karachi

(Email: ridavian@gmail.com)

This work is licensed under the Creative Commons Attribution 3.0 Unported License. To view a copy of this license, visit http://creativecommons.org/licenses/by/3.0/ or send a letter to Creative Commons, 444 Castro Street, Suite 900, Mountain View, California, 94041, USA.

Title picture credit: Najmi Khan at Malir Karachi

CATALOGING-IN-PUBLICATION DATA
Ahmad al-Rida, 1856–1921
[Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah. English]
The Prophetic Givings = Al-Ataya al-Nabwiyah:
translated, edited and summarized
by Obaid-ur-Rehman.
Includes bibliographical references and index.
1. Jurisprudence. 2. Law. 3. Islam—Law.
I. Obaid-ur-Rehman, 1981– II. Title
2025

Third Edition: 2025 (1500th year of the *Mawlid*)
Second Edition: 2017
First Edition: 2014

To,

Shaykh Hamid Rida,

the successor of Imam Ahmad al-Rida

Contents

Acknowledgements	*ix*
Note on Transliteration and Translation	*xi*
Translator's Introduction	*xiii*
Prologue (*Khutba*)	1
Preface	3
Book of Purification	7
Book of Prayer (*Salat*)	43
Book of *Zakat* (Poor-Due)	103
Book of Fasting (*Sawm*)	119
Book of *Hajj* (Pilgrimage)	139
Book of Marriage (*Nikah*)	155
Book of Divorce	181
Book of Vows/Oaths (*Ayman*)	215
Book of Fixed Penalties (*Hudud*) and *Tazir*	237
Book of International Relations (*Siyar*)	253
Book of Found Property (*Luqtah*)	299
Book of Missing Person (*Mafqud*)	303
Book of Partnership (*Sharikah*)	307
Book of *Waqf* (Charitable Trust)	313
Book of Sales (*Buyu*)	325
Book of Currency Exchange	371
Book of Guarantee/Surety (*Kifalah*)	381
Book of *Hawalah* (Transfer of Debt, Endorsement)	391

Book of Agency (*Wakalah*) 399
Book of *Dawa* (Lawsuit/Claim) 407
Book of Testimony (*Shahadah*) 417
Book of *Iqrar* (Acknowledgement /Confession) 427
Book of Duties of Judge (*Adab al-Qadi*) 433
Book of Settlement (*Sulh*) 449
Book of *Mudarabah* (Profit Sharing) 455
Book of Deposit/Bailment (*amanah*) 465
Book of Commodate Loan (*Ariyyah*) 471
Book of Gift (*Hibah*) 477
Book of *Ijarah* (Hire/Leasing) 485
Book of Coercion (*Ikrah*) 507
Book of Interdiction (*Hajr*) 513
Book of Usurpation/abduction (*Ghasb*) 521
Book of Preemption (*Shufah*) 529
Book of *Qismah* (Partitioning/Division) 547
Book of *Muzaraah* (Share-Cropping) 553
Book of Slaughtered Animals (*Dhabaih*) 557
Book of Hunting (*Sayd*) 563
Book of Sacrifice (*Udhiyyah*) 569
Book of Barred and Allowed Acts (*al-Hazr wa al-Abahat*) 573
Book of Beverages (*Ashribah*) 655
Book of Dues (*Mudayanat*) 663
Book of Pledge (*Rahn*) 667
Book of Bequests (*Wasayah*) 675
Book of Inheritance (*Farayid*) 687
Book of Various Issues (*Masail Shatta*) 691
Bibliography 773
Glossary and Other Lists 775

Acknowledgements

All praise is for Allah. Without His mercy it was not possible to bring out the work. I pray Him for peace upon the beloved Prophet Muhammad, his family and the companions. I owe this effort to Allah and His beloved Prophet. Translation is a delicate art and requires much expertise in the language of original text and the target language, understanding of the subject of the text and technical terms, writing style of author, social norms and context surrounding the writing of original text. I still have no expertise in any of these, however, I am a student of all these.

Work on this book started in later part of 2009 when I was completing the translation of *Kifl al-Faqih* which is included in ninth volume of Imam Ahmad al-Rida's *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridawiyyah* in the Book of Sales. I began with translation of remaining fatwas of the Book of Sales with the objective to translate entire Book os Sales. The idea then expanded to translate some other selected fatwas.

The pace of translation remained slow for technical and personal reasons. *Al-Ataya al-Nabwiyyah* published by Raza Foundation from Lahore helped immensely in comprehending meaning of Arabic and Persian wordings. The original book reprinted in 12 volume by Maktaba-i Rizviyyah Karachi also helped. Through these multiple editions from different publishers, I have tried to reach to the correct version of the original text.

Many people helped me directly and indirectly in bringing this work to the readers. This work had not been initiated without encouraging words of Mufti Akhtar Rida Khan Azhari, the great grandson of the author.

Hundreds of articles written by dozens of ulema, professors and experts on life and works of the author helped in understanding the meanings of his writings in a better way. Mahmod Shafqat, serving in the Islamic Banking Department at the State Bank of Pakistan, helped me find translation of *Al-Hidayah* by Imran Ahsan Khan Nyazee in the central library of the bank. The translation proved to be very helpful.

My family members took troubles of performing most of my duties to free me for this task. I cannot describe their silent support over years in words. May Allah reward everyone who helped in any manner to bring this book to the readers. Mistakes, if any, are my own. I want to request all of you that mistakes in this book be conveyed to me by emailing to ridavian@gmail.com for corrections in the next edition.

Note on Transliteration and Translation

Transliteration of Arabic, Persian and Urdu words follows the *ALA-LC Romanization Tables: Transliteration Schemes for Non-Roman Scripts* with some modifications. Transliterated words have been italicized. In the interests of readability, only two transliteration symbols are used in this book: the opening inverted comma ‘ signifies the slightly strangulated vowel *ayn* and its closing counterpart ’ indicates the glottal stop *hamza*. These are included only when they fall in the middle of a word. The words fatwa, hadith, imam, jihad, kafir, masjid, mufti, Quran, Sharia, Shaykh, Sunnah, surah and Ummah are treated as common English words. Therefore, these are not italicized.

It should be noted that Muslims conventionally and the author extensively include the words ‘May Almighty Allah bless him and grant him peace’ (*sall Allahu ta‘ala alayhi wa sallam*) when referring to the beloved Prophet, or the variants that are often attached to the names of lesser Prophets, archangels and Allah. Punctuating the text completely in that way would have been more likely to alienate Western readers than to inspire them, therefore, this book uses the phrase at first instance of the names only. With later instances, the related phrase has been added where seemed appropriate in the interests of readability.

Unless otherwise indicated, translation of all other passages, including Quranic verses and hadiths, is my own. As a rule, all footnotes are by the author. Where necessary, I have added explanations in parenthesis. Volume

and page numbers of original text published by Rida Foundation from Lahore has been given at end of every answer to the extent possible.

Throughout the text, the author has used abbreviated names of sources. A partial list of the abbreviations with complete names is as follows:

List of Abbreviations

Ashbah	*Al-Ashbah wa al-Naza'ir ala Madhab Abi Hanifa al-Na'uman*
Bahr	*Bahr al-Ra'iyq sharh Kanz al-Daqa'iyq*
Bazzaziyyah	*Al-Jama al-Wajiz* of al-Kurduri (*al-Fatawa al-Bazzaziyyah*)
Bukhari	*Al-Jami al-Sahih al-Bukhari*
Dur	*Al-Dur al-Mukhtar fi sharh Tanwir al-Absar*
Fath	*Fath al-Qadir lil Ajiz al-Faqir ala al-Hidayah*
Ghuniyah	*Ghuniyah Dhawi al-Ahkam*
Hidayah	*Al-Hidayah sharh Bidayat al-Mubtadi*
Hindiyyah	*Fatawa-i Alamgiriyyah* (*Fatawa-i Hindiyyah*)
Inayah	*Al-Inayah sharh al-Hidayah*
Jami	*Jami al-Saghir fi al-Fiqh*
Kanz	*Kanz al-Daqa'iyq fi al-Furu*
Khaniyyah	*Fatawa-i Qadikhan* (*Fatawa-i Khaniyyah*)
Mabsut	*Kitab al-Mabsut* (by al-Sarakhsi)
Muslim	*Al-Jami al-Sahih al-Muslim*
Nahr	*Nahr al-Fa'iyq*
Shami	*Hashiyah Rad al-Muhtar ala al-Durr al-Mukhtar*
Shurunbulaliyyah	*Ghuniyah Dhawi al-Ahkam*
Tahtawi ala Dur	*Hashiyah Tahawi ala al-Dur al-Mukhtar*
Tanwir	*Al-Dur al-Mukhtar fi sharh Tanwir al-Absar*
Tatarkhaniyyah	*Al-Fatawa al-Tatarkhaniyyah*
Zahiriyyah	*Fatawa-i Zahiriyyah*
Zakhirah	*Zakhirat al-Fatawa*

Translator's Introduction

Sunnis are the majority group of Muslims all over the world. It comprises four schools of law. Among these, the Hanafi *Fiqh* (School of Law) founded by Imam Abu Hanifa is the largest school in terms of the number of followers. To address the needs of such large following, Hanafi muftis, like other schools, have issued fatwas to answer questions posted to them by public as well as other Hanafi ulema. Most prominent among these muftis and their disciples kept a record of fatwas by maintaining copies of the questions and respective answers. This book is an attempt to translate part of one such collection of fatwas by a Hanafi jurist, Imam Ahmad al-Rida.

Imam Ahmad al-Rida was born in year 1856 in Bareilly, a city in Nothern India. He was educated primarily by his father, Shaykh Naqi Ali Khan. After completing his education and the training as mufti at the age of 13 years, he spent the remaining life issuing fatwas accordingly to the Hanafi school. He was a prolific author. As many as 1000 books, booklets and glosses are said to have been written by him. Shaykh Zafar al-Din, his student and biographer, has counted his treatises in as many as 50 different branches of knowledge. Imam Ahmad al-Rida was also a popular Sufi master.

Imam Ahmad al-Rida left for the eternal world in 1921/1340H but his hundreds of publications, dozens of students and over a hundred sufi deputies (*kulafa*) in the Qadiri-Ridwi order spread his word among tens of millions of the Muslims of subcontinent even since his life time. He is remembered with titles like *A'lahadrat* (His Highness) and *Imam-i Ahl-i*

Sunnat (Imam of Ahl-i Sunnah al-Jamah community). I would not go into describing details of his life here since a lot about his life and works is now available in English language in the form of published biographies and posts on online platforms. For discussion of his contributions for the Muslim World, I believe translations of his work would be more beneficial for the readers, rather than them relying on views presented by others in print and online, because an author's writings speak accurately about his real contributions and counter any incomplete and misplaced anlyses presented by someone else.

Imam Ahmad al-Rida was an upholder of traditional Hanafi views on all legal matters and, yet, he was successful in addressing issues and presenting solutions to problems at hand with his extraordinary juristic ability. This can better be described through a challenging issue that was handled by him pertaining to Islamic law about paper money. The following paragraphs describe the matter and surrounding events. To reply the question about legal position of paper money, Imam Ahmad al-Rida was able trace basis of his ruling in earlier Hanafi jurist Ibn Humam. Prior to the ruling by al-Rida, confusion existed among ulema about the exact position of paper money in Sharia. Some ulema had preferred not to answer the questions about paper money while the opinions of other ulema could not win consensus of other muftis.

While this question was drawing attention of ulema globally, Imam Ahmad al-Rida went to Makkah in 1905/1323H for performing his second *Hajj*. Upon his arrival, a sequence of event made him popular among ulema of Makkah. While al-Rida was in Makkah, one of his opponents, Khalil Ahmad Ambethwi also arrived in Makkah and considered the presence of al-Rida in Makkah an opportunity to respond to al-Rida's fatwa against him and other Wahhabis that al-Rida had issued in India. Ambethwi raised the issue of knowledge of the Prophet about the Unseen (*Ghayb*) in the court of the governor of Makkah. Al-Rida was asked to reply to his questions. The reply came out in the form of *The State of Makkah on the Basis of the Unseen* (*Al-Dawlat al-Makkiyyah bi al-Madat al-Ghaybiyyah*), which instantly became popular among the ulema of Makkah and was also read out in the court of the governor. The book drew many endorsements and the attention of ulema towards Imam Ahmad al-Rida's ability to address complex legal issues. The issue of paper money was among those issues, thus, some questions about paper money were presented to al-Rida.

Imam of Hanafi *musalla* (prayer leader) in the grand masjid of Makkah, Shaykh Abd Allah Mirdad and his teacher Shaykh Hamid Ahmad came up with 12 questions about paper money. The questions from ulema of such status reflect the confusion among ulema about the legal position of paper money at that time. The wonderful construction of questions also points out to the expertise of the two ulema in the Islamic law. The reply came out in the form of *The Seal of Discerning Jurist on Injunctions about Paper Money*

(*Kifl al-Faqih al-Fahim fi Ahkam-i Qirtas al-Dirahim*). The book was welcomed by ulema and Imam Ahmad al-Rida himself has reported the praise of the book by the ulema of Makkah. The ulema copied of the book for their reference, some of which are still preserved in libraries. Imam Ahamd al-Rida recorded the events of his journey to Makkah in *The Discourses* (*Al-Malfuz*). The extracts from the paragraphs related to *The Seal of Discerning Jurist* are quoted here.

> There was not a single learned person in Makkah who did not visit me during my stay there except Shaykh Abd Allah Ibn Siddiq Ibn Abbas who was the mufti of Hanafis (*mufti-i hanafiyyah*), an office second only to that of the sharif (the governor) of Makkah. His high designation prevented him from visiting me. He sent a close disciple with the message who said, "The mufti of Hanafis has sent greetings to you and is eager to see you." I was about to promise that I would visit him but Sayyid Isma'il Khalil stopped me and said, "Swear (*qasm*) to Allah! It would not happen; all of the ulema have come to meet you so why is that he has not come." His words left no option for me, but the meeting with the shaykh was destined to happen in an amazing manner.
>
> During those days, Shaykh Abd Allah Mirdad and Shaykh Hamid Ahmad Muhammad asked 12 questions about paper money. In reply, I was writing the book *The Seal of Discerning Jurist* (*Kifl al-Faqih*), and its fair copy was being prepared in library of the holy sanctuary with Sayyid Mustafa Khalil, brother of Sayyid Isma'il Khalil, who had excellent handwriting. In past, my teacher's teacher Shaykh Jamal Ibn Abd Allah Umar, who was the mufti of Hanafis during his times, was asked a question about legal position of paper money., and he had replied, "Ulema are the custodian of knowledge, and I do not find any basis for paper money in earlier texts so that I am unable to reply to the question."
>
> One day, I reached the library and noted that a graceful man was reading *The Seal of Discerning Jurist*. When he reached to the point where I had reproduced the narration from *Fath al-Qadir* that sale of a paper for thousand (dirhams) was permissible and was not improper, the shaykh exclaimed, "Why Shaykh Jamal Ibn Abd Allah could not find this narration." After this, he asked for certain books to copy some citations. I was marking corrections on the manuscript of *The Seal of Discerning Jurist*., We had no introduction till that time. He placed the inkpot on a book that he was not reading or using for copying citations. I did not object but simply removed the inkpot from over the book. He again placed the inkpot over the book saying, "Permissibility of it (placing inkpot over a book) is stated in the Chapter on Improper Acts in *Bahr al-Ra'iyq*." I did not reply that there was no Chapter on Improper Acts in *Bahr al-Ra'iyq* because the book ends before that chapter but I said, "It is not so and rather prohibition has been stated in *Bahr al-Ra'iyq* except where there is a need, for example where someone wants to copy citation and the pages are turning by airflow." He said, "I am going to copy citations." I replied, "But you are not writing as yet." He went silent and inquired about me from Sayyid Isma'il Khalil who told him that I was the author of *The Seal of Discerning Jurist*. He turned to me with embarrassment and then left (the

> library) after few minutes. Sayyid Isma'il exclaimed, "Allah is pure! This was an amazing event."

The fatwas issued by Imam Ahmad al-Rida throughout his life were compiled in 12 volumes by his disciples. He himself has described the background in the Prologue (*khutba*) to this book. He titled the collection as *The Prophetic Givings in the Fatwas of al-Rida* (*Al-Ataya al-Nabwiyah fi al-Fatawa al-Ridwiyyah*) The collection includes fatwas on questions received from around the world. Only first volume was published during the lifetime of Imam Ahmad al-Rida and the remaing volumes were published decades after his demise. The collection has also been published by Rida Foundation (Lahore) with parallel Urdu translation of Arabic and Persian text.

The collection being mostly in Urdu language could not draw attention of English reading world. With the objective to bring contents of the collection in English language, I started translation of parts of it. Allah will, this translation would be expanded in a phased-manner in next editions.

In this edition, my effort has been to cover the entire text in a brief manner with translation of shorter fatwas and summary of all booklets that are included in the collection and I have tried to cover all chapters with translation of atleast few fatwas from every chapter. A list of booklets that have been completely translated by myself and other translators has been added at the end of this volume. Keeping in view the organization and history of the original texts, many fatwas and booklet summaries have been moved to other or newly-created chapters in line with the popular structure of the Hanafi legal texts. Cross references have been mentioned to help the reader in matching booklets summaries to the original text.

Prologue (*Khutba*)

Allah's name I begin with, the Compassionate, the Merciful.
We praise Allah and send Salutations upon Allah's Noble Messenger.

All praise is for Allah, and this is the greatest understanding (*Fiqh al-Akbar*) and the huge knowledge (*Jami al-Kabir*). The favors of Allah the Exalted are in abundance (*Ziyadat*), His bounties (*Fizza*) are vast (*al-Mabsut*) and like a collection of luminous (*al-Ghurar*) pearls (*al-Durar*). All the guidance (*al-Hidayah*) is from Allah, and from Allah is the start (*al-Bidayah*) and towards Allah is the end (*al-Nihayah*). It is Allah's praise that grants the protection (*al-Waqayah*) and the purity (*al-Niqayah*) to intellect (*al-Dirayah*), the sight of kindness (*al-Inayah*) and the beauty of sufficiency (*al-Kifayah*).

Blessings and salutations on the one who is the greatest imam (*al-Imam al-Azam*) of all the honorable Messengers, my master (*Maliki*), my intercessor (*Shafai*) and the most praiseworthy (*Ahmad*). Beauty itself declares, without deliberating, that Muhammad (the most praised), the most beautiful (*al-Hasan*), is the precursor of (Prophet) Yusuf (*Abu Yusuf*) in beauty as he is the first (*al-Asal*) to whom all the exquisite and noble qualities were bestowed upon (*al-Muhit*), and all the best (*Basit*), better (*Wajiz*) and the most excellent (*Wasit*) qualities are given to him. He is the river of magnificence (*al-Bahr al-Zakhar*) and the pearl of excellence (*al-Dur al-Mukhtar*), the treasure of secrets (*Khazayn al-Asrar*), the illuminator of the eyes (*Tanwir al-Absar*). He is the one

who brings back the baffled (*Rad al-Muhtar*) to the bounties of the all-forgiving (*Minh al-Ghafar*) and is the blessing of the all-powerful (*Fath al-Qadir*), the helper of the weak and needy (*Zad al-Faqir*), the oceans of all excellences (*Multaqi al-Abhar*) come together to him, and the sum of rivers of all noble qualities (*Majma al-Anhar*) are from him. He is the treasure of subtleties (*Kanz al-Daqayq*), the enlightenment of reality (*Tabayin al-Haqayq*) and the clear ocean of knowledge (*Bahr al-Rayq*), and every rising stream (*Nahr al-Fayq*) seeks his help. Our hopes (*al-Munyah*) are with him, and we are independent from others (*al-Ghunyah*) because of him. He is the means to success (*Maraqi al-Falah*), the assister in hardships (*Imdad al-Fatah*) the opener of all the doors (*al-Idah*) of goodness (*al-Islah*), the light of amendment, the divine light that lights up this illumination (*Nur al-Idah*), the revealer (*Kashf*) of the hidden treasures (*al-Mudmarat*), the solver of hardships (*Hal al-Mushkilat*), the chosen pearl (*Durar al-Muntaqa*), the fountain (*Yanabi*) of wishes (*al-Mubtagha*), the illuminator of hearts (*Tanwir al-Basayr*), the gleaming jewels (*Zawayr al-Jawahir*) that are rare (*al-Bida*) and immaculate (*al-Nawadir*). It is impossible to find his example or match (*al-Ashbah al-Nazayr*). His court makes beggars wealthy (*Mughni al-Saylin*), he is the helper of the weak and needy (*Nisab al-Masakin*), the one with most exemplary qualities (*al-Hawi al-Qudsi*) from amongst all of mankind and angels, sufficient for all needs (*al-Kafi*), the exemplary (*al-Wafi*), the granter of cure (*al-Shafi*) for the diseased and sick, the perfect (*al-Musafa*), the chosen one, the pure (*al-Mustasfa*), the most honored (*al-Mujtaba*), the purifying (*al-Muntaqa*), the most sufficient (*Udat*) for all times (*al-Nawazil*) of need, the most excellent provider (*Anfa al-Wasayl*) of the most excellent, the most beneficial means (*Asaf al-Sayl*) of attaining blessings (*Ayun al-Masayl*), who is the support for successors (*Umda al-Awakhir*) and representative of the predecessor (*Khulasa al-Awayl*).

Blessings and salutations be also on his family and his companions, his blessed wives and his group who are the illuminating lanterns in darkness (*Masabih al-Duja*) and the keys to the guidance (*Mafatih al-Huda*). Particularly, the two elders (*al-Shaykhayn*), the closest companions (*al-Sahibayn*) of the most beloved, who encompass both ends (*Tarfayn*) of the Sharia and the hidden reality, and the two honored due to marriages, each of them is the light of sight (*Nur al-Ayn*) and the accumulator of oceans (*Majma al-Bahrayn*).

Blessings and salutations be also on the experts (*mujtahids*) of his community, the imams of his nation, especially the four pillars (*al-Arkan al-Arba*) and the gleaming rays of light (*al-Anwar al-Layma*).

Blessings and salutations be also on his most noble son, the greatest helper (Ghawth al-Azam) who is a fortune (*Zakhira*) for saints, a gift for jurists (*Tohfa al-Fuqaha*) and the link between the two sections (*Jami al-Fasulayn*), that is, those of finer hidden reality (*Fusul al-Haqayq*) and tidy Sharia (*Shara al-Muhazab*) with all beauties, and also upon us, with them, for their sake. O the Most Gracious! the Most Merciful! Accept our prayers; Ameen; Ameen; Ameen. All praise is for Allah, the Lord of all the worlds.

Preface

With Allah's praise, Allah's giving, Allah's help and Allah's protection, and Allah is blissful, blessings are from Allah, will is of Allah, there is no power but Allah, Allah is sufficient for us, Allah is the best disposer of affairs, the great Lord and the Helper, these are tall gardens, bunch of grapes from which have come down because of heavy weight. These have high thrones, preserved dishes, arranged carpets and well-placed chairs in the matters of the religion of Abraham and the Hanafi school of law.

Allah will, you would find flowing springs of bright researches conducted by our kind seniors, green rugs and colorfully designed carpets of discussions by the earlier masters, and pure bridegrooms like garnet and coral whom no man or jinn has touched before me. You would find rulings about new inventions, detailed researches, correct analysis, wonderful reconciliations, unique endorsements, strong rulings and answers to objections that the Knowledgeable Lord has revealed before me as blessings for the service I have done to the knowledge received from seniors.

I am stating this with much annoyance for my little strength and power and submission towards the Almighty, and with many evidences that there is no power nor strength except from the Almighty Allah, and I do not spare myself as, no doubt, men sometimes mistake and fall short so how could I do so, given my humble and weak self. But Allah is the Almighty and the Kind such that a weak can be associated with the powerful. Therefore,

whatever rulings I have written, if that is correct (and I expect so from the mercy of Allah and I praise Allah for that), it would be from Almighty Allah, and if that is incorrect, it would be from me and the devil. I seek protection from Allah for that and I repent to Allah.

Yes, yes! I praise Allah for seeking his mercy that I never thought myself as one among the ulema or the jurists, nor do I deserve to disagree with our imams or compare with them in rulings and legal bases expressed by them. In fact, I am a humble servant of them, dependent on them and beneficiary of their knowledge and receiver of blessings from Allah because of them. With such blessings, Allah has made it easier for me and provided resources and, if Allah will, Allah would guide me towards the correct in every matter. I do understand the point where it is permissible for a follower (*muqalid*) of imams to state "in my view" therefore, I fly within my domain and remain within it. And I have no help and protection except from Almighty Allah, then from the Prophet and then from the imams and senior experts of this field….

These fatwas have been arranged into books and chapters as per popular arrangement of legal collections of the Hanafi school. This arrangement has made it easier to search fatwas and serve as a ready reference. You would notice that it does not contain repetition of fatwas on similar questions. It also does not include fatwas of other ulema on same questions (against the prevalent practice of including these to increase count and volume of fatwa collections). In fact, even it does not contain all of my fatwas. Probably half, or more than half or two-third of my fatwas are included in it, and you know one-third is a significant portion. This is for the reason that … my father Shaykh Naqi Ali Khan … appointed me to write fatwas on 14th of Shaban of … 1286H (18 November 1869); I was not even 14 at that time because my birthday is 10 Shawwal 1272 (13 June 1856). I started writing fatwas and my mistakes were corrected by him, may Allah have mercy on him. After seven years, he permitted me to issue fatwas without his review. I did not consider it appropriate to do so until he passed away in Dhiqaddah 1297H (November 1880). Hence, fatwas in these 12 years were not copied. Furthermore, whenever same question was asked 10 or 12 times, only one instance was recorded, except for some clear reason or mistakenly. Despite issuance of a large number of fatwas and brevity in the rest of fatwas, the compiled collection of my fatwas has reached to seven volumes. Every volume comprises of records on 1400 to 1600 large-sized pages. The collection is still expanding and would continue to expand so far as the Kind Allah allows. Considering the heavier volumes, my friends reorganized the collection into 12 volumes. Allah will, more fatwas would be added to it as new fatwas are issued hereafter.

I have have titled this collection as *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*. All praise is for Allah; and blessings upon the Prophet, his family and companions.

The Certificate of the Servant: On juristic chain of permission to the author

Sanad al-Faqir fi al-Fiqh al-Munir on chain of Hanafi jurists in permission to Imam Ahmad al-Rida for narrating juristic views

Summary:
The Certificate of the Servant comprising the chain of Hanafi masters, muftis, authors and great shaykhs is as follows.

O Allah! please approve my permission of Fiqh which is a chain of famous Hanafi muftis and authors. Praise is for Allah that it has many channels. Among bests of which is that I narrate it from Shaykh Abd al-Rahman Siraj Ibn Shaykh Abd Allah Siraj Makki who has 27 masters between him and the great imam Noman Ibn Thabit who has four masters between him and the beloved Prophet, Allah's durud and salam upon him.

I narrate it from,
Shaykh Abd al-Rahman Siraj Makki who narrates it from
Shaykh Jamal Ibn Abd Allah Ibn Umar who narrates it from
Shaykh Muhammad Abid Ansari Madani who narrates it from
Shaykh Yusuf Ibn Muhammad Ibn Ala al-Din Mazjaji who narrates it from
Shaykh Abd al-Qadir Ibn Khalil who narrates it from …
Shaykh Burhan al-Din Marghinani who narrates it from
Shaykh Fakhar al-Din al-Bazodi who narrates it from
Shaykh Shams al-Ayema al-Halwani who narrates it from
Shaykh Qadi Abi Ali al-Nasafi who narrates it from
Shaykh Muhammad Ibn al-Fadal al-Bukhari who narrates it from
Shaykh Abd Allah al-Bazmoni who narrates it from
Shaykh Abd Allah Ibn Abi Hafas al-Bukhari who narrates it from
Shaykh Ahmad Ibn Hafas who narrates it from
Imam Muhammad Ibn al-Hasan al-Shaybani who narrates if from
The Grand Imam Abi Hanifa Noman Ibn Thabit who narrates it from
Shaykh Hammad who narrates it from
Shaykh Ibrahim who narrates if from
Shaykh Ulqama wa al-Aswad who narrate if from
The Prophet's companion Abd Allah Ibn Masud who narrate it from
The beloved Prophet, peace and blessings of Allah upon him and his family.

BOOK OF PURIFICATION

BOOK OF PURIFICATION

Chapter on Ablution (*wudu*) 9
The Wonderful Kindness: On elements of ablution 9
Length of *siwak* (wooden toothbrush) 10
Light of the Lantern: On drying face and hands after ablution 10
The Brightness of Rulings: On effect of flu over ablution 11
The Flowerily Designs: On impurity from bleeding 12
A Caution for the Nation: On effects of sleeping postures over ablution 14
Chapter on Bathing (*ghusal*) 15
A Summary of Explanations: On rulings about elements of bath 15
The Rulings and the Bases: Obligation to bath on release of semen or precum 16
A Shining Light: On the limit of water used for ablution and bathing 18
The Blessings from the Sky: On using excessive water in purification 20
Unveiling of the Hidden: On recitation of the Quran while a person is impure 20
Chapter on Water's Purity 21
The Decisive Paper: On definition of already used water 21
The Pure Statement: On condition of using water for ablution 22
The Fresh and the Clean: On dimension of a pure-water well 22
Widening the Surface: On size of a pure-water pool 23
A Gift of the Drizzle: On purity of abundant water despite having filth 24
A Clear Declaration: On rule that fatwa is always on the view of Abu Hanifa 25
The Divine Light and Vibrance: On defining plain water 27
The Giving of the Prophet: On obtaining water owned by minor fo ablution 28
The Concise Detail: On definition of water that is thin and flowing 28
Chapter on *Tayammum* (Purification with Clean Earth) 29
A Better Explanation: On the definition of *tayammum* 29
A Rare Generosity: On situations where water is not found for purification 30
The Success: On Imam Zufar's view about *tayammum* 30
A Happy Rain: On definition of earth needed for *tayammum* 30
The Decisive View: On *tayammum* with already used earth 31
A Section on Faith and Kalam: On hidden impurity of not knowing Allah 31
The Laws of Ulema: On *tayammum* by one who knows that someone has water 33
The Discrete Need: On a ruling of Imam Sadr al-Shariyyah about *tayammum* 34
A Luminous Candle: On usage of water where bath is incomplete 34
Chapter on *Masah* (Rubbing Boots) 35
Masah over woolen or cotton socks 35
Chapter on Menstruation 37
Duration of menses (*hayd*) 37
Duration of *nifas* (postnatal bleeding) 38
Chapter on Impurities (*Anjas*) 39
The Removal of Shortcoming: On impurity of dogs 39
Sweeter than Sugar: On using bone char for refining sugar 40
Chapter on *Istinja* (Cleaning after Defecation) 41
Urinating while standing and use of paper for *istinja* 41

Chapter on Ablution (*wudu*)

The Wonderful Kindness: On elements of ablution

Al-Jud al-Hulu fi Arkan al-Wudu (1324)

Question: from Maulana Zafar al-Din al-Bihari Qadiri, 10 Shawwal 1324H. How many mandatory beliefs (*fard-i aytiqadi*), mandatory acts (*fard-i amali*), obligatory beliefs (*wajib-i aytiqadi*) and obligatory acts (*wajib-i amali*) are required in ablution, and what are their definitions?

Summarized Answer:
The author starts his reply with defining, classifying and stating technical aspects of mandatory beliefs, mandatory acts, obligatory beliefs and obligatory acts.

After preliminary discussion, the author describes four mandatory beliefs in ablution: (1) washing face, from the top of forehead to the bottom of the place on skin wherein teeth roots end, and from one ear to the other; the author then presents 10 exemptions from this, (2) washing both arms from nails to elbows, with some exemptions, (3) moisturizing surface of head, and (4) washing feet, from nails to top of ankles, from sides and below feet.

The author states that mandatory acts are different in every school of law, and that according to the correct ruling of the Hanafi school mandatory acts, as defined, of ablution are also the obligatory acts. There are 12 obligatory acts in ablution: (1) washing lips, such that these are reasonably open to allow flow of water over these, (2-4) washing skin under eyebrows, mustache and mouche where skin is visible, (5) low density of beard hair requires washing skin under it, and high density of beard hair would only require washing beard hair that are within circular round of the face, (6) washing temples, ears and centers of cheeks, (7) washing both elbows completely, (8) washing skins under rings, bangles and if there is no space, one would have to remove these and wash the skin, (9) moisture must reach either skin of head or hair just above head skin, and (10) at least one-fourth of the surface of head must be moisturized, (11) washing entire surface from above the top of ankles to edges of toe nails, (12) flow of water over face and state part of hands and feet is mandatory; and mere moisturizing these or rubbing wet hands will not suffice. The author then informs that there are no obligatory acts in ablution. (1:179–234)

Length of *siwak* (wooden toothbrush)

Question: from Sayyid Ibrahim (Marehra), Bilgram, 8 Jamadil Awla 1311H. What do you say about the length of *siwak*? Some people say that the devil rides over it if the length of it is more than a hand's length. What is the basis of this saying? Reply and be rewarded.

Answer:
This statement has been narrated from Shaykh Muhammad Ibn Ali Tirmidhi. It is stated in *Dur*, "It should not be longer than size of a hand else the devil rides over it." It is in *Hashiya Tahtawiyyah*, "Length of *siwak* should be equal to size of hand of the user because the devil rides over it if larger than that." It is in *Sharh Niqayah* of Allama Qihsani, "Hakim Tirmizi said that it must not be longer than size of hand else the devil would ride over it." In my view, it is certainly according to the appearance and it is reality unless there is an evidence against the apparent, which is not present here since the devil exists and his ride over it is possible. And Allah knows better. (1:234–235)

Light of the Lantern: On drying face and hands after ablution

Tanwir al-Qindil fi Awsaf al-Mindil (1324)

Question: 6 Shawwal 1324H.
Zayd has the opinion that face should not be dried with cloth after ablution

as it deprives of the divine reward of ablution? Reply and be rewarded.

Summarized Answer:
The opinion of Zayd is incorrect, and it is better, unlike wealthy and proud, that if needed, one may not dry out hands and face completely after ablution and he may leave some moisture undried. The Prophet has informed that weight of ablution water on body would be included in the arm of divine balance on the Day of Judgement. In fact, it has been narrated from Hadrat A'isha that the Prophet had a handkerchief for drying face and hands after ablution. Such narrations are four in numbers although their chain of narration is weak, but the number remove the weakness.

The author further states that this ruling applies to both ablution and bath. In fact, need to drying up water from body is more in case of bath especially drying up of head after bath.

If it is known that failure to dry up would be harmful, it would be obligatory (*wajib*) to dry up the organ(s) after bath, and even in case of ablution, and even if avoidance of the harm would require complete dry up.

The narration in *Sahih Bukhari* and *Sahih Muslim*, wherein the Prophet did not take up the cloth presented to him by Hadrat Memona for cleaning the body, does not make the act of drying up improper. It is because narration of avoidance of an act by the Prophet does not make commission of that act improper. Earlier ulema did not state any wrong in drying up body parts after ablution, however, they did not like becoming habitual of it, for resemblance to having pride. (1:237–253)

The Brightness of Rulings: On effect of flu over ablution

Lama al-Ahkam an La Wudu min al-Zukam (1324)

Question: Dhiqaddah 1324H.
Does sneezing affect the ablution or not? Reply and be rewarded.

Summarized Answer:
Flu, no more how much, does not nullify ablution since its flow contains clean mucus in which no blood or lymph (*rim*) is found. Therefore, ulema have expressed it that phlegm in vomit does not nullify ablution not matter how much it has flow. The author then presents multiple citations from Hanafi books with the conclusion that mucus coming from brain does not nullify ablution as per the consensus of Hanafi jurists. Since mucus of flu flows down from brain, ulema could not have view of flu nullifying ablution. He then presents a doubt of Imam Tahtawi and a reply to it from the books of Hanafi jurists. In this discussion, the author formulates a principle related to the subject matter that could diffuse many confusions. He then states

that one may have view that every flow that results from pain or disease would nullify the ablution since it may have blood or other impurities, however, such an opinion could not relate to flu.

The author then concludes by saying that apart from all arguments presented in this answer to the question, the doubt presented in the question is unfounded. Flu is a common disease. Since the beginning of human life on the Earth, there would be no human who would be spared from flu if he or she has had at least few years' life. The Companions of the Prophet and ulema of every century must have had flue on some days during their lifetimes. If flu had nullifying effect on ablution, the related ruling must have been described in the books of jurists. (1:263–278)

The Flowerily Designs: On impurity from bleeding

Al-Taraz al-Mualam fi ma Hadas min Ahwal al-Dam (1324)

Question: Dhilqaddah 1324H.
If a person sneezes blood but blood does not come out, would the sneeze invalidate ablution, or not? If a cloth touches that blood multiple times such that it pollutes the cloth more than permissible limit (*daram*), would the cloth become impure? Likewise, if cloth is polluted in such a manner due to chickenpox etc, what would be the ruling about it? Reply and be rewarded.

Summarized Answer:
There can be three situations.

First, the skin is removed but blood and lymph stay at place and do not flow. It would also be counted as staying at place if it touches a thing and can be seen on that thing. For example, it is touched with a finger and its presence can be seen on the finger, or teeth were brushed with wooden toothbrush or a finger or something was bitten, and color of blood can be seen on these, or a finger was inserted in nose for cleaning and blood can be seen on the finger, and none of these situations accompanies flow of blood. Similarly, where pimple or cyst which has bump, and blood or lymph comes out of bump but stays on its opening, and it would also be counted as staying at place until it remains within the circle of pimple or cyst, even if blood or lymph moves within it.

None of the above-mentioned situations would affect ablution nor that blood or lymph would be considered as impure. Accordingly, where a cloth touches multiple times on itchy pimples and gets little fluid that cannot come out or flow on its own, even during extended time, even if that fluid is visible all over the cloth, the cloth would not be impure. The same ruling applies to a cloth that touches with blood which is so little that it cannot flow on its own. This means there was predominant doubt (*ghalba-i zan*) that

if cloth had not touched and way of its flow, it would remain it its place and had not flown. However, if the blood was to flow but the cloth prevented it by absorbing it so much so that the quantity of blood that could flow was absorbed, it would nullify the ablution; and if it was more than allowed limit, the cloth would also become impure. The reasons is that the situation had blood having the ability to flow but was prevented by the cloth touching it.

Second, the blood and lymph bumped or raised from opening of pimple but stayed there, and it did not and could not flow. For example, a small drop of blood comes out when skin is pricked by a needle, and that remains in the form of a dot or bump and does not flow. In such situations, the ablution is not nullified as per the correct juristic view.

This condition also comes within the situation where blood or lymph bumped but it does not have the ability to flow and was wiped off by a cloth, and it bumped in another session (*majlis*) and was wiped off, and this happened in consecutive sessions, such that if the blood or lymph had come out at once, it would have flown, even then it would not nullify ablution because in every session it did not have capacity to flow. However, if all these occurred in single session, it would nullify ablution because occurrence in once session means the same as occurring a single time. Similarly, if blood bumps and is dried up by putting dust etc and this is repeated in a single session, it would nullify the ablution if sufficient blood bumps that could let it flow because it is like flow even if it apparently just bumped. The assessment that so much blood would accumulate in a single session or not depends on correct estimation and predominant doubt.

Third, blood or lymph bumps and flows or it has capacity to flow but there is something that is preventing the flow, then this situation would nullify ablution and the cloth that absorbs its flow more than permissible limit would also be impure, as per the consensus of our imams.

Flow of blood or lymph that is inside the body would not nullify ablution because blood is always circulating in body. Eyeball is also inside the body. Therefore, eyeballs are never required to be washed in ablution or bath (*ghusal*) or even where they have real impurity (*nijasat-i haqiqi*). Therefore, if a pimple on top of eye pops and blood or lymph flows from top to bottom of eyeball but does not come out of eye, it would not nullify the ablution; and as per the rule, it would not be impure (*najas*) if it does not come out of body (*hadas*). Hence, if it is wiped off by a cloth and the cloth falls in water, the water would not be impure. But there is dispute about nasal bone as to whether bloods coming down from brain and flowing over nasal bone but not reaching to nasal cartilage would nullify ablution or not. As per the popular view, it would not nullify ablution since nasal bone is inside the body and washing it is not required in ablution or bath. It is better to perform ablution in such a situation because washing nasal bone is not obligatory but it is a sunnah act in ablution and bath. (1:279–352)

A Caution for the Nation:
On effects of sleeping postures over ablution

Naba al-Qoum an al-Wudu min ai Noum (1325)

Question: 14 Muharram 1325H.
Which forms of sleep invalidate ablution, and what is the reconciled view in this matter? Reply and be rewarded.

Summarized Answer:
The conclusion of all the discussions of ulema on this topic is that sleep nullifies ablution when two conditions are met: Both buttocks are not much fixed on resting place, and the sleep is with a posture that does not prevent carefree sleep. When both of these conditions exist in a sleep, the sleep would nullify ablution. If any of the two conditions is absent, the sleep would not nullify the ablution.

Examples of situations when sleep does not nullify ablution include the following. (1) Sleeping while side sitting (both buttocks are on floor and both legs are spread on one side); this also applies to sitting on a chair or a seat in a rail. (2) Sleeping with both-knees-erect sitting; this applies to situation where hands are on floor or head is on knees. (3) Sleeping while kneeling. (4) Sleeping while sitting cross-legged on floor, a tablet, a charpai, a boat or a cart. (5) Sleeping while sitting over horse that has saddle. (6) Sleeping while sitting on bare back of animal while the animal is moving uphill or on plain track. (7) Sleeping with back set on a wall or something else such that if it is removed, the person would fall. (8) Sleeping while standing. (9) Sleeping in condition of *roku* (bowing 90°). (10) Sleeping while sitting like prostration (*sajda*) that conforms the sunnah.

Examples of situations when sleep nullifies ablution: (11) Sleeping while squatting. (12-14) Sleeping while sitting face up, face down or towards a side. (15) Sleeping while an elbow is used as pillow. (16) Sleeping while sitting but bending on one side such that at least one buttock is up. (17) Sleeping while riding on bare back of animal and the animal is coming downhill. (18) Sleeping while kneeling with tummy on thighs such that both buttocks are not fixed. (19) Sleeping while sitting cross-legged and head on thighs. (20) Sleeping while sitting like prostration that does not conforms the sunnah. In all these ten situations, ablution would be void because both of the stated conditions are present. (1:365–438)

Chapter on Bathing (*ghusal*)

A Summary of Explanations: On rulings about elements of bath

Khulasa Tibyan al-Wudu (1306)

Question: from Molvi Ali Ahmad, 15 Jamadil Awla 1314H.
How are the three mandatory acts in bath related to washing mouth, nostril and entire body performed? Reply and be rewarded.

Summarized Answer:
Entire mouth including everything till the end of tongue and down to throat is to be washed. People often consider it limited to mouth rinsing with some water such that water does not reach till the end of tongue and down to throat. The bath remains incomplete in that situation and neither prayer (*salat*) can be performed nor can masjid be visited without bath. It is mandatory (*fard*) that water flows behind jaws, inside inner cheeks (buccal mucosa), bottom of teeth, into black triangles and on every organ up to edge of throat. If something blocks water from reaching the bottom of teeth or inside black triangles, its removal and rinsing water to these would be mandatory, else bath would be invalid. But if the removal would be harmful or painful, there would be exemption till the harm or pain exists.

Both nostrils up to start of nasal bone are to be washed. It would not occur without watering nose up to start of nasal bone through inhaling water into nose. People are not careful about it and just touch the water to the tip of nostrils resulting in an incomplete bath. Our jurists have stated that if booger (dried nasal mucus) is present, it would be mandatory to remove it and to allow the water to flow, else the bath would be incomplete.

Flow of water on surface of entire body from hair on head to sole of feet is mandatory. People make two mistakes in it. First, they moisturize (touch with wet hand) rather than ensuring flow of water on parts of body, whereas flowing water is mandatory. Second, they flow water with little care and some places on body remain dry or at most get moisturized. Many pionts on body are such that attention and care for flowing water over these are needed. The rule is that a bath would be incomplete if a place even so little as edge of a hair remains without flow of water over it. (1:439–56)

The Rulings and the Bases: Obligation to bath on release of semen or precum

Al-Ahkam al-Ilal fi Ashkal al-Ahtalam wa al-Bilal (1320)

Question: 7 Rabi al-Akhir 1320H.
Would bath be obligatory for a man who wakes up from sleep and finds his body or dress wet, or had a dream but did not found body or cloth wet? Reply and be rewarded.

Summarized Answer:
There can be six scenarios.

(1) He does not find his body or cloth wet. (2) He finds his body or cloth wet and is sure that it is not semen (*mani*) or precum (*madhi*) rather it is *wadi* (a type of urine thicker than and following urine), urine, sweat or something else. In both these scenarios, bath would not be needed, as per the consensus of our jurists, even if he can recall details of the dream.

(3) Where it is evident that his body or cloth is wet with semen, it would be obligatory for him to perform bath, as per the consensus, even if he has forgotten the dream.

(4) Where there is doubt that it is wet with semen, (5) it is believed that it is wet with precum, or (6) it is known that it is not wet with semen and there is doubt that it is wet with precum, it would be obligatory to perform bath if he remembers wet dream (*ahtilam*), as per consensus of our jurists.

If he cannot recall wet dream, Imam Abu Yusuf has the opinion that bath would not be obligatory in all three scenarios. In scenario number (6), Imam Abu Hanifa and Imam Muhammad agree with the opinion of Imam Abu Yusuf, that is, where it is known that body or cloth is not wet with semen and there is doubt that it is wet with precum, bath would not be

obligatory. In scenario number (4), both Imam Abu Hanifa and Imam Muhammad have the opinion that it would be obligatory for him to perform bath.

In scenario (5), it is believed that body or cloth is wet with precum. There is severe dispute among jurists about narrating opinion of Imam Abu Hanifa and Imam Muhammad. First, a lot of jurists are of the view that there is, like scenario (6), consensus among three imams over bath not becoming obligatory. The author names and quotes narrations from 22 books of those ulema here who support this First view. Second, general legal texts of the Hanafi School and majority of jurists are of the view that scenario (5), like scenario (4), carries difference of opinion among our imams whereby Imam Abu Hanifa and Imam Muhammad have opinion that bath is obligatory, whereas Imam Abu Yusuf has the opposite opinion. The author names and quotes narrations from 35 books of earlier jurists who support this Second view.

In sum, there is difference among ulema over it. There can be a reconciling-view (*tatbiq*) approach or a preferred-view (*tarjih*) approach to it. If we go for preferred-view approach, the second view is preferred. The reasons are as follows. Firstly, legal texts support it. Secondly, majority of jurists supports it. Thirdly, it is the prudent view. Fourthly, more jurists who entitled to being followed support this view, whereas first view is supported by mostly later jurists from the recent past.

If we go for reconciling-view approach, the first view is about reality of precum, that is, where it is predominantly expected that it is precum in reality, and there is doubt of it being semen, then there would be consensus for bath not becoming obligatory; and the second view is about appearance of precum, that is, it is believed or there is knowledge that it is precum but no confirmation of the fact that it may be semen that has adopted this form caused by heat.

My research is the one which Imam Ibn Humam has pointed that the first view is correct, which entails that if it is precum in reality, there would be no doubt that it is semen and where there is no doubt of semen, the consensus view would be that for bathing not being obligatory. However, this would not be possible where he wakes up and see wet body or cloth, and where precum is seen, there would be doubt of semen because semen adopts the appearance of precum due to weight of body or heat. Hence, the person waking up and seeing precum would also have doubt of semen, and there is not doubt that as per the opinion of Imam Abu Hanifa and Imam Muhammad, doubt of semen would make bathing obligatory, even if he does not recall wet dream. In short, the preferred and reconciling approaches lead us to the second view, which is correct and authentic. (1:465–578)

A Shining Light:
On the limit of water used for ablution and bathing

Bariq al-Nur fi Maqadir Ma al-Tahur (1327)

Question: 22 Ramadan 1327H.
What is the quantity of water fixed by Sharia for ablution and bathing? Reply and be rewarded.

Summarized Answer:
Before presenting over 20 hadiths related to quantity of water the Prophet used for ablution or bath as narrated, the author presents an introduction of various measures, that is, *sa'a*, *mudd* and *ratal*, which were prevailing during the times of the Prophet and corresponding measurement during the times of the author. The hadiths reflect various quantity of water that are apparently very limited for bathing and abluting. The author then discusses the following points.

First, whether the measurements mentioned in narrations reflect equivalent weight of water to grain that fills the measure, or volume of water that fills the measure. Apparently, the volume of water in those units would weight more. Discussions by our jurists in legal texts reflect that the meaning here is the volume of water that fills those measurements.

Second, quantity of water for bathing has been narrated as up to one *sa'a*, whether it includes the water for ablution that is part of bath. Imam Tahawi states that it does not include water for ablution, and to reconcile with the hadith of more water he stated that it included water for ablution. The author then points out that the hadith did not contain such distinction.

Third, as to which grain the measure is related. Grains are of different weight. Wheat is heavier in weight than barley. There are different narrations from jurists, and Ibn Abidin has stated that careful view is that the *sa'a* was of barley. The author adds that it must be the grain that was mostly used as food and that was barley, and wheat became common cereal during the reign of Hadrat Amir Mawiyah, Allah be pleased with him.

The author then presents points which indicate that theabove quantity of water does not include the water for the following. (1) Water for washing private parts after urinating. (2) Water for washing filth, like semen on thighs. (3) Water for washing hands up to wrists thrice before washing private parts after urinating as per the sunnah. (4) Water for tooth brushing. (5) Water for washing mouth for removing smell. (6) Water for washing away phlegm, like in case of wet cough. (7) Water for washing away mucus resulting from flu. (8) Water to wash out small bits of pann or beetles.

Fourth, whether the measurement of water described in hadiths is fixed and more or less quantity is not allowed. Our enior jurists have quoted consensus of the Ummah that the measurements are not fixed and the

objective is to avoid wastage of water and ensure conformance with the sunnah. The measurement stated in the hadiths and in the *Zihir al-Riwaya* (six popular books of Imam Muhammad) are meant for minimum quantity for availing the sunnah. Our jurists have stated that more than one *sa'a* in bathing is better (*afdal*). Using more water than is needed is better (*mustahab*) where it does not reach to the extent of apprehension (*waswasa*), and where apprehension comes in, one must not use more quantity than is needed.

My opinion is that there are five stages of wants: necessity (*darurat*), need (*hajat*), comfort (*munafat*), luxury (*zinat*) and unnecessary (*fadul*).

Necessity is one without which life is not possible. For example, a hole which is barely enough for usage as a house, few bites of food for eating that gives just enough strength to remain alive and have energy for mandatory worship, and a small piece of cloth to cover private parts (*satar*).

Need is one that is required for avoiding harm. For example, house of enough size to protect from harmful winter, summer and rains, so much food that could give energy for obligatory and sunnah worship, and so much cloth that is needed to avoid cold of winter and covers body in a respectable manner, for example, prayer only in pants is severely improper.

Comfort is one absence of which is not harmful but it is beneficial for the actual purpose. For example, roof of good height and width of house, extra items with food, and turban (*imamah*) with dress.

Luxury is an additional feature that increases beauty and appearance and has no benefit or contribution towards the purpose. For example, curved doors in house, colors in foods, and sewing with short stitches and accuracy in cutting of cloth for dress.

Unnecessary is addition or delicacy that is non-beneficial. For example, peaks of gold or silver on house or expensive curtains on walls, fruits and sweets in addition to food, and dress hanging lower than ankles.

Necessity has the status of mandatory. Need has the status of obligatory and sunnah. Comfort and luxury have the status of non-obligatory sunnah to desirable (*mustahab*) and extra manners. Unnecessary has the status, with difference of levels, of allowed, improper, severe improper to prohibited.

Considering these five stages in purification, washing every part of body washing of which is mandatory, such that at least water flows over it once, is necessity. Flowing water thrice and performing three sunnah before washing face in ablution are needs because these four are obligatory sunnah, and skipping these has harm. Flowing water on every part, such that there remains no doubt about flow at least three times and there is not much need of noticing flow on every part, is comfort. Washing parts of face, hand and feet in excess of what are required to be washed in ablution is luxury. Washing any part of body for forth time intentionally is unnecessary.

Fifth, … (the author wrote this in a separate booklet presented after it.)

The author then describes 10 points to save water in ablution, and five points to avoid apprehension. (1:579–790)

The Blessings from the Sky: On using excessive water in purification

Barkat al-Sama fi Hukam Asraf al-Ma (1327)

Summary:
Fifth, about ruling on using excessive water in purification. There are apparently four views of ulema on it. (1) It would be prohibited unconditionally, even if ablution or bath is performed on flowing canal. (2) It would be improper (*makruh*), even if it is performed on flowing canal. It would be non-severe improper, even if it is performed in home, that is, it would not be sin, and would only be against sunnah. (3) It would not be improper, neither severe improper nor non-severe improper, and would only be against a desirable. It would be allowed in flowing canal and improper other than that. The author then presents statements of various jurists and also quotes hadiths. After analysis, the author concludes that view number (3) is correct, and views numbers (2) and (3) refer to extra water as excessive for appearance only and does not involve sin. (1:651–765)

Unveiling of the Hidden: On recitation of the Quran while a person is impure

Irtafa al-Hajab an Wujuh Qirat al-Junb (1328)

Question: 22 Muharram 1328H.
Is an impure person prohibited from reciting whole of a verse (*ayah*) or also a part of verse from the holy Quran? Is it permissible for him to recite part of stanza like *hasbunAllahu wa naymal wakeel* or *Innalillahi wa innalayhi rajion*, or even this is not permissible? Please reply; may you be rewarded by Allah.

Summarized Answer:
Reading those verses of the Holy Quran that are *dhikr*, praise (*thana*), requests (*munajat*) and pray (*dua*) with intention of *dhikr* or pray and without intention of reciting the hol``y Quran is allowed to impure men and impure women, even if these are complete verses like the *Ayat al-kursi*, last three verses of *Surah Hashr* or even complete surah like *al-Hamd*. Therefore, one may say *Bismillah al-Rahman al-Rahim* at start of lesson or meal although it is a complete verse; the reason is that it is not uttered with the intention to recite the holy Quran. (1:795–824)

Chapter on Water's Purity

The Decisive Paper: On definition of already used water

Al-Taras al-Madil fi Had al-Ma al-Mustamil (1320)

Question: 5 Rabi al-Akhir 1320H.
What is the definition of used (*mustamil*) water? Reply and be rewarded.

Summarized Answer:
Used (*mustamil*) water is that little (*qalil*) is quantity that has either resulted in performing obligatory purification, that is, has touched part of human body purification of through ablution or bathing was required, or usage of it on surface of body was a rewarding act and the user used it with the intention of that getting that reward, and the water leaves the body after usage even if the water has not settled somewhere and is still flowing. Some jurists have added the conditions of stoppage of its flow and becoming settled somewhere to the definition. This is a comprehensive definition of the used water. The author clarifies the following points.

(1) Water in higher quantity that is *dah-dar-dah* (water from pool that has a surface of at least 100 square feet) or flowing water wherein a person performs obligatory ablution or bathing or washes a filth (*nijasah*), then the

water would neither be dirty nor would it be used water. Therefore, the definition states the condition of little quantity of water.

(2) A person on whom it is obligatory to perform ablution has washed all or some parts required to be washed, even without intention of ablution, or water flew over the parts, then the water would become used water because the water touched and purify the part purity of which was obligatory, although remaining part of body may still require purity, however, if all the required parts were washed, the obligation has been completed. (2:43–112)

The Pure Statement:
On condition of using water for ablution

Al-Namiqat al-Anqa fi Farq al-Malaqi wa al-Malqa (1320)

Question: Rajab 1327H.
Whether water would remain usable for ablution where hand, finger or nail of a person requiring who is not with ablution or requires obligatory bath touches water in a container? Some people say that it would be improper to use that water for ablution. If it does not remain usable for ablution, how could it be made usable? Reply and be rewarded.

Summarized Answer:
As per authentic ruling where water that is little in quantity and is neither flowing nor is coming from a *dah-dar-dah* pool and it, without need, touches body part(s) even slightly of a person who is under obligation to get purity by washing those body parts, the water would become used water and cannot be used for purification, it is pure but cannot be used for obligatory purification although it can be used for washing real impurity (*nijasat-i haqiqi*). This ruling is based on common juristic texts and it is also narrated from our three imams, that it, Imam Abu Hanifa, Imam Abu Yusuf and Imam Muhammad. Senior jurists, like Imam Jurjani, Imam Quduri, Imam Kasani and Imam Qadikhan, have stated it as the view of our imams on which they had consensus. (2:113–248)

The Fresh and the Clean:
On dimension of a pure-water well

Al-Hani al-Namir fi al-Ma al-Mustadir (1334)

Question: 11 Jamadil Awal 1334H.
What should be the *dor* of a well to declare it *dah-dar-dah* well in which water remains pure despite contamination with filth? Reply and be rewarded.

Summarized Answer:
There are four opinions about it with every opinion having a reason, and the author's research is a bit different.

(1) 48 feet, as per *Khulasa* and *Hindiyah*. This has also been stated as careful view in *Muhit* and *Fatawa-i Kubra* and has been followed by Imam Tahtawi.

(2) 46 feet, as per *Bahr*. Some books have stated this opinion as authentic and one according to which rulings are to be issued (*mufta-ba*).

(3) 44 feet. Apparently, no book has preferred this opinion.

(4) 36 feet, as per *Multaqat* and this has also been endorsed and stated as according to mathematical method by Imam Marghinani. This opinion has also been endorsed in *Ghurar*, *Dur* and *Maraqi al-Falah*.

My research is that its *dor* is approximately 35 and a half feet, that is, 35.449 feet, so the *qatar* would be approximately 5 yard and 10.5 *girah*, in fact 10 *girah* and one *ungal*, that is, 11.284 feet. The detail of this matter is as follows. It is proved in Diagram 12 of Article 4 of *Usul-i Hindsah* that multiplying *muhit* of circle with one-fourth of *qatar*, the *masahat* of circle can be calculated, or multiplying *qatar* of circle to one-fourth of *muhit* or half *qatar* to half *muhit* or multiplying *qatar* to *muhit* and dividing by 4; all of these would give same result. (2:285–308)

Widening the Surface:
On size of a pure-water pool

Rahab al-Sahitah Miyah la Yastawa Wajhaha wa Jufaha fi al-Masahatah (1334)

4 Jamadil Awal 1324H.
What do ulema say in reply to the following questions.

Question: A pool is *dah-dar-dah* at depth and less than it on the surface. If filth (*nijasat*) falls into it, would the entire water or water from surface to 100 feet down become impure? Reply and be rewarded.

Summarized Answer:
Some jurists have given the opinion that it would not be impure in any of the two situations, given the large quantity of the water. The correct view is that only that upper part would be impure that is smaller than *dah-dar-dah* so much so that if water is drained from above and comes to the level where the pool is dah-dar-dah, the water would be pure. The reason is that it is touching impure water but the water in large quantity does not become impure in this way until an impurity changes its color, smell or taste.

Question:
In the above situation, if there is a drain on top of the pool and if the water becomes impure, the drain is opened to release the water and water goes down to the level where the pool is *dah-dar-dah*, and pure water is added to fill up the pool, would the entire pool water become pure, or not? Reply and be rewarded.

Summarized Answer:
If time passes after the drainage so much so that upper sides of the pool that were impure are dried up, and the pool is filled up with pure water, and filth does not remain, then the entire pool water would become pure; otherwise, the upper part of the pool would again become impure. (2:321–423)

A Gift of the Drizzle:
On purity of abundant water despite having filth

Hiba al-Jir fi Ma-i Kathir (1334)

Question: 11 Jamadil Awal 1334H.
What is the required depth of water for sufficient water that, like flowing water, remains pure despite falling of filth in it? Reply and be rewarded.

Summarized Answer:
There are 11 opinions about depth (*umuq*) of water. (1) Only so much that there is no opening of bottom anywhere on the surface. (2) More than width of a large dirham which is equal to 4 *masha*. (3) Only so much as does not result in opening of bottom upon taking water out with hand. (4) Only so much as does not result in touching of hand to bottom upon taking water out with hand; this requires more depth than the last one. (5) Having depth of up to ankles. (6) Having depth equal to width of four spread fingers; this will mean width of nine fingers together. (7) Equal to a span (distance between the tips of thumb and little finger). (8) One foot. (9) Two feet. (10) Equal to the distance from which the coin placed at bottom cannot be seen by a standing man. (11) Depends on the opinion of the user.

Out of these, opinion number (3) is given in general legal texts and opinions numbers (1), (2), (7) and (8) are copied in *Badai*, *Tabiyan*, *Fath*, opinion number (4) is given in *Khaniya*, and *Ghuniya*, opinion number (5) is in *Jami al-Rumuz*, opinion number (6) is in *Ghuniya* and opinions numbers (9) and (11) are in *Kayhistani* and opinion number (9) is in *Sharh Niqayah Birjindi*. Out of these two opinions numbered (1) and (3) are correct.

Opinion number (1) has been stated and corrected by Imam Zayliye. Opinion number (3) has been preferred in general legal texts like *Waqayah*, *Niqayah*, *Islah*, *Gurar*, and *Multaqi*. Texts (*matun*) like *Wajiz Kardari* have

stated it. Imam Qadikhan has given it priority and stated as narration of Imam Abu Hanifa through Imam Abu Yusuf. *Hidayah*, *Durar*, *Majma-i Anhar*, *Miskin*, *Maraqi al-Falah* and *Hindiyah* have stated it as correct. *Zakhirat al-Uqba* has stated it as more correct. *Ghayathiyyah*, *Ghuniyah* and *Khazanat al-Muftin* have stated it as correct (*mukhtar*). *Mayraj al-Darayah*, *Fatawa-i Zahiriyyah*, *Fatawa-i Khulasa*, *Johara-i Nayarah*, *Shalbiyyah* and others have stated as valid opinion for issuing a fatwa.

My opinion is that there is no difference between opinions numbers (1) and (3). Opinion number (1) requires avoiding opening of bottom so that water has sufficient surface (*masahat*) to avoid becoming broken into two so that it does not become of lesser (*qalil*) water that would become impure if a filth is already present. (2:425–449)

A Clear Declaration:
On rule that fatwa is always on the view of Abu Hanifa

Ajalla al-Alam an al-Fatwa Mutliqan ala Qaul al-Imam (1334)

Summary:
A Hanafi mufti is required to issue fatwa according to the opinion of Imam Abu Hanifa. The author presents six points for discussion on the subject.

(1) Reproduction of a narration is not fatwa as per that narration. Various narrations are reproduced that are even from other schools of law. No body consider those as fatwas. Fatwa involves replying to question in the light of related injunctions of Sharia, and this authority to reply is permissible only for one who knows injunctions of Sharia with underlying argument, else it would be wrong and a blame on Sharia.

(2) Arguments are of two types. First is detailed one knowledge (*marfah*) of which rests with one who is mujtahid. It is because validity of an argument requires that it does not contradict with other arguments. This is possible where one has the ability to know whereabouts of these and only a mujtahid has that ability. Knowing only that a mujtahid has based a ruling on a particular argument would not suffice. Second is the summary one.

(3) Majority of jurists agree that following (*taqlid*) is not allowed to mujtahid because following narration of another without knowing detailed argument is real following (*taqlid-i haqiqi*) which is not permissible. This is opposed to a common man who does not know detailed argument and this forces him to follow a mujtahid.

(4) Fatwa has two types: customary (*urfi*) or real. The real one involves issuance of fatwa after knowing detailed argument, and these are issued by a jurist (*faqih*), like we say Faqih Abu Jafar or Faqih Abu al-Layth has issued this fatwa. A customary fatwa is one where narrations from imam are presented to the questioning person, and the answering person does not know the underlying arguments and presents these as following (*taqlid*), like

Fatawa-i Ibn Nujaym, *Fatawa-i Ghazni*, *Fatawa-i Khairyyah* and *Fatawa-i Ridawiyyah*.

(5) Narrations are of two types: apparent (*suri*) and necessary (*zaruri*). Apparent narration is one that is quoted narration. Necessary narration is one that is not specifically a narration but is a supplementary argument and has been used as basis for necessity, that is, if he had argued in this specific matter, this had been his argument. Sometimes necessary ruling is opposed to apparent ruling. Necessary ruling prevails in such a situation. If one adopts apparent ruling his act is considered an opposition and moving to necessary ruling is considered a following. Such things are present in narrations of imams and the following can be bases of these: need (*darurat*), difficulty (*harj*), customary practice (*urf*), dealing (*tamul*), important policy (*maslihah*) and disturbance (*fasad*). The reason is that exemptions of needs, removal of difficulty, adoption of customary practice, action as per dealing, relaxation for religious policies that are free from disturbance, and removal of disturbances are such principles of Sharia that are known by everyone, and imams are inclined towards these, agree with these or trust these. If a narration from imam is present in a matter and these necessities are present, we would certainly know it that if these were present during the times of Imam Abu Hanifa, he would have ruled as per the requirement of these necessities and not otherwise. In such a situation, acting on necessary ruling of him not narrated from him would be acting on his ruling rather than acting on his apparent ruling.

(6) Ruling of imam in a matter is apparently based on a weak argument in view of ulema. Therefore, if they depart from ruling of imam, they would not be deviating from followership of imam, rather they would be following a rule among his general rules, like imam has said that when a hadith is proved to be valid (*sahih*), my ruling would be according to that hadith. Ibn Shahna in *Sharh al-Hidayah*, as per *Sharh Ashbah Bairi* and as per *Shami*, where a hadith is proved to be valid and appears to be opposed to ruling of Imam Abu Hanifa, the hadith would be followed and would be ruling of Imam Abu Hanifa and the follower would not be excluded from being a Hanafi; it is because Imam Abu Hanifa has said that when a hadith is proved to be valid, my ruling would be according to that hadith. In my view, the word 'valid' here means valid as per juristic rules that can be assessed by a mujtahid, and not as per experts of hadith sciences.

(7) When there are more than one ruling from imams because of difference in correction, the ruling of Imam Abu Hanifa is to be preferred because he is the head of our school. If one is the ruling of Imam Abu Hanifa and the other is ruling of Imam Abu Yusuf or Imam Muhammad and there are two opposite corrections, both corrections would cancel each other, and the original survives and that would be preferring the ruling given by Imam Abu Hanifa.

One would not find a matter on which jurists have agreed to a ruling which is a ruling other than that from Imam Abu Hanifa; this would only be possible where the situation of that matter has changed for the change in environment. In such a situation, we must not oppose the jurists (because it would be opposition of Imam Abu Hanifa). Where jurists are divided in corrections to ruling, the ruling of Imam Abu Hanifa would be preferred because it is entitled to be preferred over others' rulings.

In my view, if the situation shows presence of any of the six conditions (need, difficulty, customary practice, dealing, important policy or disturbance), then it would be required to act on opinion of jurists, and there is no need of considering any other point. Where the jurists are divided in preference of rulings, if all of them have consensus that opposes Imam Abu Hanafia's ruling, we would follow jurists and if jurists are divided in preference of rulings, we would follow the ruling of Imam Abu Hanifa. (1:95–178)

The Divine Light and Vibrance: On defining plain water

Al-Nur wa al-Nuraq La Safar al-Ma al-Mutlaq (1334)

Question: 24 Jamadil Awal 1334H.
What is the definition of plain water that is required for ablution and bathing? Reply and be rewarded.

Summarized Answer:
The author has divided books into five parts. In the first part, the author discusses related narrations from earlier legal texts and presents 160 types of water with which ablution is valid and 147 types of water with which ablution is not valid. The author further describes 10 principles to assess other waters for deciding validity of these for ablution.

In the second part, the author presents his research on the definition of plain water according to which plain water is the water that maintains its natural flow and anything has not mixed with it that is either equal to or more than it in quantity, or resulted in creation of a new thing for a new objective.

In the third part, the author presents views from other legal texts.

In the fourth part, the author states 5 principle views and adds his own.

In the fifth part, the author adds 43 types of water to 307 in the first part. (2:451–3:249)

The Giving of the Prophet:
On obtaining water owned by minor fo ablution

Ata al-Nabi li Ifadat-i Ahkam-i Ma al-Sabi (1334)

Summarized Question:
What is ruling about using water owned by a minor for ablution?

Summarized Answer:
Water can be: (1) allowed without owner, (2) owned but disallowed, and (3) allowed and owned by someone. Examples of (1) is water from canal or rain water of lakes; these are without owner unless someone takes these out. Example of (2) is water kept by a man in pot for usage of his family. Example of (3) is water of a public reservoir (*saqayah*) which has been filled by a man on his own or at his expense and the man has allowed public usage of the water.

In case of (2) and (3), minor would not be the owner of the water. In case of (1) where a minor takes out the water, for example from a canal, it will be in his/her ownership. No one, other than his/her needy parents, can drink or perform ablution from that water, except where the user buys the water from the guardian (*wali*) of the minor, or from the minor if his/her guardian allows. (2:494–541)

The Concise Detail:
On definition of water that is thin and flowing

Al-Diqat al-Tabyan li Ilm al-Riqat wa al-Silan (1334)

Summarized Question:
What is the definition of restricted (*muqaiyad*) water? Reply and be rewarded.

Summarized Answer:
Water is thin if its surface is plain while flowing and it does not accumulate until something stops it. If water does not remain thin and flowing, it would become restricted water that is not usable for ablution. (3:41–88)

Chapter on *Tayammum* (Purification with Clean Earth)

A Better Explanation: On the definition of *tayammum*

Hasan al-Tamum li Bayan Had al-Tayammum (1335)

Question: 11 Muharram 1335H.
What is the definition of *tayammum* and what is its basis in Sharia? Reply and be rewarded.

Summarized Answer:
Tayammum occurs when, in absence of access to water sufficient for mandatory purification, a mature Muslim takes clean earth on his hands or through instruction on hands of an appointed Muslim, for removing ritual (*hukmi*) or real (*haqiqi*) impurity from his body or impurity of death form a Muslim's dead body, for touching with those hands so much of face and hands of himself or the dead body as is required in ablution, such that earth touches every part of face and hands through his or the appointed persons' hands that took clean earth with the intention of purification. (3:311–4:320)

A Rare Generosity:
On situations where water is not found for purification

Samh al-Nudra fi Ma Yuris al-Ajaz an al-Ma (1335)

Summarized Question:
What are the situations when water for purification is unavailable and one has no way of attaining purification except through *tayammum*? Reply and be rewarded.

Summarized Answer:
The author describes 175 situations where water for purification is not found to be available. (3:411–543)

The Success:
On Imam Zufar's view about *tayammum*

Al-Zafar li Qaul-i Zufar (1335)

Summarized Question:
What do ulema say about the opinion of Imam Zufar (a student of Imam Abu Hanifa) wherein he has declared permissibililty of *tayammum* when time is limited?

Summarized Answer:
There is a ruling of Imam Zufar wherein he, against the view of the three imams, allows *tayammum* in case time is limited. One narration from the three imams is also in favor of the ruling of Imam Zufar. Some rulings of legal books also support it. It has also been adopted by some senior jurists, and some jurists have strengthened his argument. (3:441–63)

A Happy Rain:
On definition of earth needed for *tayammum*

Al-Matar al-Said ala Nibat-i Jins al-Sayd (1335)

Summarized Question:
What are the things that are counted as earth for the purpose of *tayammum*?

Summarized Answer:
As per the ruling of Imam Abu Hanifa, everything that is from species of earth may be used for *tayammum*, where it is not dominated by a species other than earth. *Tayammum* is not allowed with any specie other than earth,

according to the opinions of all our imams. Therefore, delimitation and identification of things that are counted as earth for this purpose is needed.

The author then describes 181 things from species of earth with which *tayammum* is permissible. The author further states that *tayammum* with other then these things is not permissible, and then he describes 130 things that are specifically mentioned in legal books with whom *tayammum* is not permissible. (3:579–707)

The Decisive View: On *tayammum* with already used earth

Al-Jad al-Sadid fi Nafi al-Istamal an al-Sayd (1325)

Question:
After purification, water becomes used and thus not capable of usage for ablution again, would earth be also not capable of reuse once it has been used for dry ablution? Reply and be rewarded.

Summarized Answer:
Tayammum does not make earth used. The same earth may be used for *tayammum* again. (3:717–738)

A Section on Faith and Kalam: On hidden impurity of not knowing Allah

Bab al-Aqaid wa al-Kalam (1335)

Question:
Do non-Muslims know Almighty Allah, or not?

Summarized Answer:
The author had promised writing of this booklet *A Section on Faith and* Kalam (*Bab al-Aqaid wa al-Kalam*) in the booklet *Hasan al-Tamum* (*A Better Explanation*) above. Although the subject of this booklet is different from issues related this chapter on *tayammum* or apparent purity, but it is a great source of hidden purity. As the holy Quran has insisted on prayer in between verses related to issues of divorce by stating "Be careful about prayers, especially the one in middle, and stand steadfast during prayer," following that style of the holy Quran, this booklet is a reminder on Islamic faith in between issues of *tayammum*. May Allah accept this effort, make it one that strengthens the faith of Muslims and it is not difficult for Allah to show the true path to some opponents (of Islam). And the power to do good is from Allah the Exalted.

Those who know should understand and those who do not know should know that knowing Almighty Allah is true only for Muslims. Non-Muslims do not know Allah. Infidelity is defined as not knowing Almighty Allah.

Those who lack knowledge on this topic may have a doubt. The author first present here their doubt (in next three paragraphs) for discussion, and then would explain the answer to it.

Doubt: The doubt presented is that hundreds of sects of non-Muslims know Almighty Allah and also believe in Allah. Philosophers have presented arguments in support of monotheism (*Tawhid)*. Jews and Christians trust upon *the Torah* and *the Bible* (*Injil*), and Zoroastrians (*Majus* or *Parsis*) upon *Zend-Aavesta*, believing these to be the words of the God. Hindus (*Aryah*) although do not consider *Vedas* as such but believe it to be revelation from God and make a claim to follow monotheism.

Polytheists, like Hindus, also say that the owner of all worlds and the God of all gods is only one. Polytheists of Arab used to say "These idols are worshipped so that they may push the worshipper closer to Allah," and exclaimed congregationally "We are present in your court, there is no partner to you but the one who you own, and you are the owner of that partner and of his properties;" and when they had spoken to the words "there is no partner to you", out Prophet Muhammad said, "You are proceeding to wrong! Stop on these words, do not proceed to next words and do not create exception." Almighty Allah says, "And if you ask them (infidels) as to who has created the Earth and th Sky, they would surely say that Allah has created these."

Those sects who claim to be Muslims but are Apostate know the Prophet Muhammad and the holy Quran, they support their arguments with the statements from the Almighty Allah and the Prophet, and they perform salat and fasting, for example the Qadiyanis, Naturis, Chakralwis, Wahhabis, Shiite (Rafdi), Deobandis, *Ghayr-i muqallid* (Ahl-i Hadith). How can we say that they do not know the Almighty Allah? Yes, saying that can be true for complete seculars who do not believe in Allah at all.

Answer to the doubt: Offer and Rejection are opposite and cannot sustain together. Presence of a thing requires presences of all required attributes (*sifat*) and absence of all faults and contradictions because if contradiction of a required attribute is present than it would not be required attribute and if required attribute is missing the thing to which this required belongs would be absent. Therefore, it is apparent that denial (*salb*) of thing can take three forms: (1) Denial of the thing upfront, like saying a human does not exist. (2) Denial of the presence of a required attribute for that thing, for example he says that human exists but it is name of a thing which is not living and speaking. (3) Acceptance of the presence of a fault or contradiction in a required attribute that is thus oppose to the presence of

the thing, for example, he says that human is a braying (*nahiq*) or neighing animal (*sahil*).

In points (2) and (3) above, he claims presence of human in words, but he could not know human in reality. He calls something human that is not real human. Thus, in denial of human and not knowing human both points (2) and (3) are equal to point (1) where there is upfront denial of human; the only difference among the three is of words.

All attributes required for Allah are must and absence of all faults and contradictions in those attributes is also must because these would contradict the presence of required attributes. You would not find any among non-Muslims who does not deny any required attribute or accepts presence of any fault or contradiction in any of those attributes. Therefore, Seculars fall in form (1) of denial by denying presence upfront, whereas the remaining non-Muslims fall in forms (2) and (3) by denying presence of a required attribute or presence of a fault or contradiction to a required attribute. Therefore, all three are equal in not knowing Almighty Allah and the difference among them is of their wordings only; the Seculars denied upfront and the others name their imaginary attributes as God resulting a claim merely in words.

Almighty Allah says, "See the one who has made his wishes his god," and "Most of them do not know Allah." …The word 'most' here apparently means to exclude those who would eventually know Allah in their lifetime. (15:529–53)

The Laws of Ulema: On *tayammum* by one who knows that someone has water

Qawanin al-Ulama fi Mutayamum Ilm Ind Zayd Ma (1335)

Summarized Question:
Would *tayammum* of a person be valid if he knows that someone has water and would make the water available for purification?

Summarized Answer:
Where a person performs prayer after *tayammum* and another person owns water that could be taken for ablution, and the person asks for water after prayer, the prayer would be valid if that owner of water refuses to give water, and prayer would be invalid if that owner gives the water. If the owner gives after the prayer, it would not be considered unless if there is prior knowledge and the person does not ask for water. Giving within time would be considered unless if after prayer the owner denies giving or later on even if that is ritual (*hukmi*) refusal. A promise to give water is also similar (to giving within time) unless after prayer and opposite becomes apparent. Refusal is not prohibition and eliminating anything. Silence is also refusal

unless the owner gives within the time, and where the owner does not give, or promises to give, and the person also does not ask, then if there remains doubt (of giving water), the prayer would be void, otherwise not. (4:31–187)

The Discrete Need: On a ruling of Imam Sadr al-Shariyyah about *tayammum*

Al-Talabat al-Badiyat fi Qaul-i Sadar al-Shariyyah (1335)

Summarized Question:
Would only *tayammum* be performed where bating is required and there is water which is only sufficient for ablution?

Summarized Answer:
Where bathing is obligatory on a person and there is also obligation of ablution, for example he had urinated and has had sexual intercourse after that, had wet dream and then urinated, and the situation is such that he cannot bath but can perform ablution, whether it is because he is in a jungle and available water is only sufficient for ablution or he is a patient for whom bathing is harmful but ablution is not harmful or he wakes up near morning after wet dream and time is short for bathing before morning (*fajr*) prayer but sufficient for ablution, in all these situations he would perform *tayammum* as per ruling of Imam Zufar and perform bathing and repeat the prayer after lapse of specified time.

In all situations, the ruling is that he is to perform *tayammum* and must not perform ablution even if ablution is not harmful for him and there is sufficient water and time for ablution. The *tayammum* would be sufficient for discharging the obligations of bathing and ablution. (4:189–282)

A Luminous Candle: On usage of water where bath is incomplete

Mujalla al-Shamat li Jami Hadath wa Lamat (1336)

Summary:
A person runs short of water in performing obligatory bathing, and then obligation of ablution occurs to him. If he finds water he would complete bathing with water and then would do *tayammum*. (4:283–320)

Chapter on *Masah* (Rubbing Boots)

Masah over woolen or cotton socks

Question: from Mulla Yaqub Ali Khan (Ujayn), 15 Jamadil Awla 1310H.
Is it permissibile to perform rubbing on cotton socks? Reply and be rewarded.

Answer:
Rubbing on cotton or woolen socks prevalent in our region is not permissible in view of any of our jurists. (1) These are covered (*mujallid*) that is not covered by leather up to ankles. (2) These do not have leather heels. (3) These are also not thick enough allowing to walk wearing only these socks without tear. These are also not thick enough to remain at their place without being tighten up to prevent from dropping down. These also cannot prevent feet from water which penetrates into these.

Rubbing on any socks that do not have the attributes stated at points (1) to (3) above is not permissible as per ruling of any of our jurists. However, where the socks are covered by leather as stated or have heals as described, or where the socks are so thick that these attributes are present, then rubbing of those socks would be permissible as per the ruling of Imam

Abu Yusuf and Imam Muhammad, and fatwa would be according to it. It is stated in *Muniyyah* and *Ghuniyyah*:

> Rubbing on socks is not permissible as per the ruling of Imam Abu Hanifa unless it is of leather that covers ups the entire part of feet up to ankles or it has heels made of leather. Imam Abu Yusuf and Imam Muhammad are of opinion that if the socks are very thick such that these do not fall down and water does not reach to the feet while wearing the socks, because then it would be like leather socks or socks covered with leather, and if water absorbs after sometime or after rubbing over it, then it would still be permissible contrary to thin socks that immediately absorbs water and water reaches to the feet.

Fatwa in this matter is as per the ruling of Imam Abu Yusuf and Imam Muhammad. Thick means that the socks remain at calves without being tighten up with anything. Our jurists have stated in this manner; however, it seems reasonable to add condition of it not being slim fit because observation indicates that slim fit socks remain at calves (do not drop down). The ruling, that such socks do not absorb water and it is possible to walk with it without wear, appears to be correct and the best definition. Najm al-Din Zahidi has stated (as reported in *Ghuniyyah*) narrating it from Sham al-Ayema Halwani:

> Rubbing on woolen socks and socks made of hair is not permissible as per consensus of jurists if these socks are thin, unless these are covered or have heels. If these are thick then in case of uncovered and without heels, there is disagreement among jurists about permissibility whereas there is no disagreement about those which have heels or are covered.

…And Allah knows better. (4:345–47)

Chapter on Menstruation

Duration of menses (*hayd*)

Question: from Aligarh, 5 Ramadan 1315H.
Where a woman has menses for less than eight days, then sexual intercourse with her (by her husband) without bathing is permissible or not, after she sees pure white fluid? Reply and be rewarded.

Answer:
There can be two situations where bleeding stops after menstruation in a period before the maximum period, that is 10 days.

If the bleeding ceases in a period that is less than her usual course, that is number of days of mensuration in preceding month, then the husband is allowed not to approach her until the time for her normal course is over even if she has taken a bath.

If her bleeding ceases in a period that is not less than her usual course, for example, it was for seven day in the preceding month and this month it is also seven or eight days or this is the first time she is having mensuration, and has ended in less than 10 days, then sexual intercourse would be permissible when at least one of the following two conditions is met.

(1) Woman takes bath, or if *tayammum* is needed because of disease or lack of water, she performs *tayammum* and offers prayer as mere *tayammum*

would not be sufficient, or (2) if she does not bath, a mandatory prayer becomes mandatory for her, that is, time of at least one of the five regular prayers passes such that she had time to bath and at least start prayer, then sexual intercourse would be permissible, otherwise not. (4:351–54)

Duration of *nifas* (postnatal bleeding)

Question: from Muhammad Siddiq (Shahjahanpur), 29 Rabi al-Awwal 1338H.
What is the duration of *nifas* following childbirth, and after how many days the woman must bath and perform daily prayers? Reply and be rewarded.

Answer:
The woman would be impure until bleeding stops following childbirth. The maximum period for nifas is complete 40 days. There is no minimum period for *nifas*; if it stops, say, in a quarter of minutes and does not resume in 40 days, she would be pure and would be required to bath and perform daily prayer. If *nifas* continues for complete 40 days or less than that, then she would be pure upon its suspension, for example in 20, 30 or 40 days.

If bleeding continues for more than 40 days, *nifas* would be up to number of days the bleeding followed after the preceding childbirth, then she would be pure and the bleeding beyond those days would be *istihadah* (extended menstrual bleeding) and the *qada* (delayed performance) of due daily prayers would be ensured. If it was first childbirth, the *nifas* would be up to 40 days and excess would be *istihadah*….(4:364–5)

Chapter on Impurities (*Anjas*)

The Removal of Shortcoming: On impurity of dogs

Salab al-Thalab an al-Qaiylin bi Taharat al-Kalab (1312)

Summarized Question: from Molvi Abd al-Hamid (Varansi), 8 Rajab 1312. What do you say about impurity of dog and impact of its presence on salat?

Summarized Answer:
As per the correct Hanafi view, mucus of dog is impure and dog in person is not impure. According to my research, skin of dogs is pure; hair of dogs is pure; slaughter and tanning result in purity of hide; teeth of dogs are pure whether dog is dead or alive and whether slaughtered or otherwise; nails of dogs are pure; if dog falls in well and comes out alive and its mucus does not touch water and there was no known filth on the dog, the water of well would be pure and 20 drums of water would be taken out from that water; if dog walks on marshy surface, feet of man would not be impure by walking on the same; and if dog is wet with water, the water would not make carpet or cloth impure until there is filth on the body of the dog. There is no doubt about these. However, jurists are divided into two groups over purity of

impact of dog's presence on prayer where person performing prayer accompanies a dog.

If dog comes and sit on prayer mat, the prayer would be valid depending on the view adopted as regards in-person purity of dog. If the view is that dog is impure, the prayer would not be valid because the prayer mat would become impure. If the view is that dog is pure, the prayer would be valid because in this case mucus of dog is impure but is inside the dog and not touching with the prayer mat. This would be like where a kid with impure body and dress comes and sits on prayer mat, the prayer would be valid even if he sits till the completion of prayer because the prayer mat is not impure. Since the ruling for fatwa (*mufta-ba*) is for purity, the ruling for fatwa would be validity of the prayer. (4:399–464)

Sweeter than Sugar: On using bone char for refining sugar

Al-Ahla min al-Sakar li Talabat-i Sakar-i Rouser (1336)

Summarized Question: from Shaykh Abd al-Jalil Punjabi (Barabanki), Dhiqaddah 1303H.
What do ulema say about sugar that has been refined using bone char?

Summarized Answer:
(1) Bones of all animals, except pig, are pure until impure fat is present on these. (2) A thing is considered pure and *halal* (permissible) in Sharia until proved otherwise. (3) Declaring a thing *haram* (impermissible) or improper without research and evidence is not careful view. (4) Rumor is not reliable and ruling of Sharia cannot be based on it. (5) Declaration of a thing as halal, haram, pure or impure are injections of our religion and cannot be based on a news from a non-Muslim. (6) Lack of care in a thing, or careless or immature attitude of a nation and lack of its knowledge of impurity or haram does not automatically result in impurity of that thing or all products in use or made by that nation. (7) Severe lack of care that may result in significant impurity or contamination results in significant doubt (*ghalba-i zan*) and it is a valid basis for ruling in Sharia. (8) Touching of impurity or mixing of haram in a thing would impure that entire thing until otherwise is established. (9) Where halal and haram are mixed in a thing in market and no clear identification can be made, Sharia would not prohibit buying that thing because halal is also present in that and possibility of halal is present which is sufficient for exemption and allowing it. (10) Almighty Allah has neither ordered us to use only that thing which also inherently pure and halal because establishing inherent purity is beyond our capacity.

Based on above 10 principles, the author forms the opinion that sugar that has been refined using bone char would be halal. (4:473–553)

Chapter on *Istinja* (Cleaning after Defecation)

Urinating while standing and use of paper for *istinja*

From: Haji Muhammad Ismail (Basotu Land, Africa), 23 Safar 1332H.

Question:
Is a Muslim is allowed to urinate while standing, or not? Reply and be rewarded.

Answer:
Urinating while standing is improper and is a practice of Christians. The Prophet has informed that it is disrespectful and against good manners to urinate while standing; this hadith has been reported by Bazzar with authentic certificate from Hadrat Barida (Allah be pleased with him). I have presented complete research of the questioned matter in my collection of fatwas. And Allah knows better. (4:599)

Question:
Is it allowed for a Muslim to clean private parts with paper after defecation, or not? Zayd is of the view that it is allowed while travelling in train. Reply and be rewarded.

Answer:
Istinja with paper is improper, disallowed and a practice of Christians. Sharia has ordered respect of paper even if the paper is plain and even more respect if it contains writing. It is stated in *Dur*, "It is severe improper to have *istinja* with a respectable thing." On this, it is stated in *Shami*:

> Paper is included in these (respectable) things. It is stated in *Siraj* that it includes paper for writing and also includes tree leaf and (*istinja* with it) is improper. This ruling has been maintained in *Bahr* and other legal books. Reason for tree leaf being improper (for such usage) is that tree leaves are food for cattle or, being soft, spread impurity rather than cleansing. Likewise, reason for paper being improper (for such usage) is that it is clean and valuable, and paper is also respectful because it is used for writing to spread knowledge. For this, the reason has been stated in *Tatarkhaniyyah* that respect of paper is part of respect of religion; jurists have narrated that Arabic (alphabetical) letters are respectable in our view even if these have been struck-through. Some reciters (*qura*) have narrated that Arabic letters are like the holy Quran, those that revealed on the Prophet Hud (peace be upon him).

The travelling by rail is not specific to Zayd; other Muslims also face the same situation, and he may keep stones or old cloth (for cleaning) during the travelling. One should be careful and not follow a practice of Christians (like using paper for *istinja*). And Allah knows better. (4:599–600)

BOOK OF PRAYER (*SALAT*)

BOOK OF PRAYER

The Pearls of the Crown: On the prayer format before the Prophet's Ascension 47
Inviting people to offer daily congregational prayers in masjid 48
Chapter on Prayer Timings ... 49
Time limits for offering daily prayers 49
Fixing a time for a prayer 50
Preventing the Convergence of Two Rivers: On offering two back-to-back prayers 51
Section on Place of Prayer 52
Offering prayer on bed 52
Prayer on rail or boat 52
Chapter on Call to Prayer (*Adhan*) and Call for Start of Prayer (*Iqamah*) ... 53
The Shining of Eyes: On kissing thumbnails on hearing the Prophet's name 53
The Sufficient Guidance: On validity of hadith with weak chain of transmission 54
The Orbits of the Hadiths' Classifications: On rules of the hadiths' classifications 55
A Path of Safety: On kissing thumbnails during the call to start prayer 55
Announcing the Reward: On reciting *adhan* besides the grave after the burial 56
Chapter on Conditions that Precede Prayer ... 57
A Guidance from the Almighty: On seeking direction towards the Qibla 57
Wearing dress of revealing fabric for prayer 58
Chapter on Method of Prayer ... 59
Offering prayer while one is unable to stand for prayer 59
The Crest: On covering body during prayer 60
The Beauty of the Brevity: On wearing shoes during prayer 60
Chapter on Recitation in Prayer ... 61
The Best Method: On pronounciation of the Arabic letter *Daad* 61
Reigning the Wrong: On the need to correctly pronounce the letter *Daad* 62
Chapter on Leading the Prayer ... 63
The Strict Prohibition: On prayer behind *Ghayr-i Muqallid* prayer leader 63
Congregation prayer behind a prayer leader who skips fasting 64
Chapter on Congregation for Prayer ... 65
The Decorated Garland: Against absence from congregation for prayer 65
The Hanging Bunches: On another congregation for a prayer 66
The Beauty of Expertise: On analysis of injunction for congregation 67
The Strong Rebuttal: Against ruling about second congregation for prayer 67
Chapter on Factors that Nullify a Prayer ... 69
Passing before a person who is praying 69
Prompting prayer leader to rectify prayer 70
Chapter on Acts that Render Prayer Improper ... 71
Accuracy of Crowns: On rules for prayer leader while he stands in mihrab 71
Folding cuffs above elbows and pulling up of trouser in prayer 72
Covering head through handkerchief for prayer 72
Chapter on *Witr* and Supererogatory (*Nawafil*) Prayers ... 73
Prevention from the Wrong Doers: On reciting *Qunut-i Nazila* during hardship 73
The Streams of Divine Lights: On benefits of performing prayer seeking help 74
The Blooming Flowers: On the method of performing prayer seeking help 74

Attributes of the Correct View: On reciting *tasmiah* aloud in *tarwihat* 74
Securing the Favor: On status of mid-night (*tahajjud*) prayer 75
A Sufficient Decoration: On discussion about sitting in prayer 75
Chapter on Law about Masjid 77
The Perfect Guidance: On inclusion of courtyard of masjid in its definition 77
The Best Objective: On prohibition of some activities in masjid 78
Chapter on Catching the Definitive Obligation 79
Sunnah prayer and congregation prayer of morning 79
One who has performed obligatory prayer before congregation 80
Chapter on Delayed Substitute Performance (*Qada*) of Lost Prayers 81
Manner of offering delayed substitute performance 81
Delayed substitute performance of sunnah prayer of morning 82
Chapter on Prostrations of Error During Prayer 83
Prostrations of error for mistake of skipping part of recitation 83
Salutations before prostrations of error 84
Chapter on Prostrations of Recitation 85
Timing of prostration of recitation 85
Prostration of recitation when the reciter needs to ablute 86
Prostration of recitation while offering *tarawih* prayer 86
Chapter on Praying During Journey 87
Change in *rakahs* of prayer during journey 87
Measure of distance that changes prayer during journey 87
Chapter on the Friday Prayer 89
A Treasure of Pearls: On praise of sultan in the sermon 89
A Flexibility in Views: On pray between the sermons for Friday prayer 90
A Sufficient Light: On the call (*adhan*) for Friday prayer 91
The Fragrances of Ambergris: 2nd call to Friday prayer to be in front of minbar 91
The Rays of Elegance: On holding Friday prayer in cities 91
A Notable Insistence: On limits of city for holding Friday prayer 92
Chapter on Prayer of Two Eids 93
A Joy of the Happy Eid: On raising hands for pray after Eid prayer 93
A Good Scarf: On embracing each other after Eid prayer 94
Chapter on Prayer Seeking Rain 95
Manners of the prayer seeking rain 95
Chapter on Funerals (*Janayz*) 97
Section on the Shroud (*Kafan*) 97
The Beautiful Letter: On writing blessed words over a shroud 97
Section on Prayer over the Deceased 98
An Amazing Desire: On prays for funeral prayer as stated in hadiths 98
The Distribution of Prizes: On pray for the dead after the funeral prayer 98
The Barrier for Prevention: On illegality of another funeral prayer for a deceased 99
The Guide to Prevention: On illegality of funeral prayer in absence of dead body 99
Section on Burial 100
Condemning the Wahhabis: In protecting the sanctity of the Muslims' graves 100
A Light of the Minaret: On installing lights at shrines 100
Aggregating the Divine Light: On prohibiting women's visits to graves 101
The Scented Proof: On fixing days for and arranging to pray for a deceased 101
The Arrival of Souls: On departed souls' visit to their houses 101
A Clear Announcement: Against festive gathering at a deceased's house 102

The Life of the Dead: On explaining the hearing ability of deceased 102
The Ordered Matching: On hearing of and response by deceased 102

The Pearls of the Crown:
On the prayer format before the Prophet's Ascension

Jaman al-Taj fi Bayan al-Salat Qabal al-Mairaj (1316)

Question: from Mulla Zarif (Rampur), 27 Moharram 1316H.
How did the Prophet perform prayer twice a day, after announcement of the Prophethood and before the event of the Ascension? Reply and be rewarded.

Summarized Answer:
Our jurists disagree about obligatory prayer twice a day, that is, once before the dawn and once before the dusk before the Ascension. The correct view is that only standing in the night (*qiyam*) was mandatory. There is no clear evidence for other than that. However, the Prophet and the Companions did perform prayer before the Ascension. The obligation of prayer at night is evident from the Surah Muzammil and there have been reports about prayer at other times irrespective of whether those were obligatory or supererogatory (*nawafil*).

There are numerous hadiths that show prayer as part of the Sharia since the revelation to the Prophet started. Upon the first revelation and the Prophethood becoming apparent, the Prophet performed prayer, and his wife Hadrat Khadija performed prayer on the same day on his instruction. On the next day, Hadrat Ali performed prayer with the Prophet. Surah Muzammil had not revealed till that time. Therefore, prayer is the first law of the Sharia after the faith.

The question about the method in which the Prophet performed prayer before the Ascension requires attention. The verses (*ayat*) and hadiths show that the prayer was similar to prayer we know, that is, it included purity of dress, ablution, facing the direction toward the Qibla, *tahrimah* (the opening *takbir*), recitation (*qirah*), bowing (*ruku*) and some ulema disagree to it, prostrations (*sujud*), congregation, and reciting loudly (*jahr*). In sum, the prayer before the Ascension appears to be similar in principles and parts as we know daily prayers today.

Some jurists disagree about presence of bowing in the prayer before the Ascension, and it was not even part of the Sharia or even the part of previous Prophets' codes, and that bowing is a specialty for the Last Prophet and his Ummah becoming part of the Sharia after the Ascension. They say that bowing was, in fact, not present in the afternoon prayer performed on the very next day of the night of the Ascension. The order for bowing came after that and the Prophet and the Companions included bowing in afternoon prayer after that. The said disagreement of some jurists depends on the validity of the chain of transmission of the hadiths relied upon. If

these are valid, it would be proved that every prayer before the Ascension and one prayer after the Ascension did not include bowing, otherwise it can be said that apparently those prayers were similar in the method we know and use for prayer. (5:75–97)

Inviting people to offer daily congregational prayers in masjid

Question: from Sayyid Mushtaq Ali (Zakhira, Bareilly), 15 Dhi al-Haj 1338H. We, the Muslims of Zakhira locality of Bareilly, have formed a committee of the following individuals to invite people for offering daily prayers: Hadi Husayn, Mukhtar Ahmad, Qurb Muhammad, Mahbub Husain, Mushtaq Ali, Sayyid Husayn, Inayat Husayn and Sayyid Azhar Ali. How should the committee member be inviting the Muslims towards prayer?

Answer:
Tell them politely, and remind them about severe punishments stated in the Quran and hadiths for those who skip daily prayers and congregation. It would certainly be beneficial for those who have faith in their hearts. Allah the Exalted has informed, "And inform because telling is beneficial for Muslims." You must remind them about the words and injunction from Allah because this reminder would certainly benefit the Muslims. Those who still do not obey, they may be pressurized through those whose pressure can make them obey; and if they still do not obey despite the pressure must be subject to boycott by stopping to greet, talk and socialize with them. Almighty has advised, "And when the Satan gets you forget, you should not continue sitting with the wrong doer upon the realization." (6:191–2)

Chapter on Prayer Timings

Time limits for offering daily prayers

Question: From Hafiz Abdul Karim (Aligarh), 8 Jamdi al-Akhir 1322H. What is the time limit for offering daily prayers of noon, afternoon, evening and night, especially until when evening prayer can be performed in time?

Answer:
The time limit for noon prayer is up to the time when the shadow is twice the size of what it was at the time of noon on that day.

The time limit for afternoon prayer is until sunset, that is when no ray of the Sun remains above the horizon, and the recommended (*mustahab*) time for this prayer is until the Sun is so bright that one cannot look at it constantly. Improper time for this prayer would start when one can look at the Sun constantly without hindrance, vapor or smoke etc; and the author has identified through experience that the said time starts 20 minutes before the sunset.

The time limit for evening prayer is until the wide brightness remains spread from North to South and that remains for a considerable time after disappearance of redness (*surkhi*). Upon disappearance of that wide brightness, the time for evening prayer ends and the time for night prayer begins. Light from East to West, like one in pre-morning (*subh-i kadhib*) is

not to be relied. The specified time for evening prayer in these cities is at minimum 1 hour and 18 minutes after sunset by the end of March and by the end of September, whereas it is at maximum 1 hour and 35 minutes by the end of June, and at maximum 1 hour and 24 minutes in winter by the end of December. The recommended time for this prayer is until stars are clearly visible. Delaying this prayer so much that smaller stars become clear is improper.

The time limit for night prayer is up to early morning (*subah-i sadiq*), and the recommended time is before mid-night.

All these timings keep changing with changes in position of the Sun and changes in latitude of cities, and it is not possible to specify a fixed time. The question was especially for the time of evening prayer; therefore, an estimated time has been stated for these cities and the same is estimated duration for early morning (*subah-i sadiq*). And Almighty Allah knows better. (4:473–553)

Fixing a time for a prayer

Question: From Muhammad Abdul Aziz (Mozang, Lahore), 12 Dhiqaddah 1337.
Is it permissible to fix a time for a prayer within the time limit specified in Sharia, or not?

Answer:
In Hadith, the sunnah is stated that when people gathered early the Prophet would offer congregational prayer early, and when he noted people as coming last, he would delay.

Sometimes people gathered but the Prophet delayed the congregation: once the Companions waited long for his arrival to lead congregation for night prayer. After waiting for long, the companion Umar (Allah be pleased with him) went near the door of the Prophets house and requested that women and children are sleeping. The Prophet came out and said, "There is no one on the Earth who is waiting for this prayer except you, and you are in prayer until you are waiting for it."

There is no harm in fixing a time for a prayer as per clock, as prevalent in the two holy cities, so that people do not have to wait for congregation and they are able to gather quickly, when it does not bring hardship for elderly and sick. And Almighty Allah knows better. (5:323–4)

Preventing the Convergence of Two Rivers: On offering two back-to-back prayers

Hajiz al-Bahrayn al-Waqi an Jama al-Salatayn (1313) also titled as *Hujjat al-Hayn ala Nazir Husayn (1313)*

Question: from Bareilly, 1 Rajab 1313H.
Is it permissibile to offer two back-to-back prayers in one go on excuse of travelling that requires curtailment of prayer? Reply and be rewarded.

Summarized Answer:
Allah the Exalted has fixed separate timings of mandatory prayers through instructions by the Prophet. Neither prayers are valid before those timings nor is it permissible to defer prayers beyond those timings. Except for afternoon prayers at Arafat and evening prayers at Muzdalifah during *Hajj*, performing two or more back-to-back prayers is neither permissible for a resident nor for a traveler. The holy Quran and Hadiths have various citations evidencing its prohibition. The author then presents the names of the Companions, *tabiyin* (ulema from the generation following the Companions) and *taba-tabiyin* (ulema from the generation following the *tabiyin*) and earlier ulema and jurists that support this rule.

The author then presents the research that performing back-to-back prayers can take two forms.

(1) Each prayer is offered within the permitted timings for that prayer. For example, afternoon prayer is performed near the end of its permitted timing and by the time it is completed the timing for evening prayer starts and the evening prayer is performed immediately, at start of the permitted timings for it. Here both the prayers have been performed within respective permitted time slots. This form of offering two back-to-back prayers is permissible in case of disease or travelling, and our jurists have stated exemptions for such back-to-back prayers.

(2) One prayer is performed in the time limit permitted for the other prayer. This form can take two sub-forms: First, where next prayer is performed within preceding prayer's permitted timing. Second, where a prayer is deferred and performed within the permitted timings of and before the next prayer.

Both of these sub-forms are allowed during *Hajj* only, as already stated. Other than that, the first sub-form would result in nullifying the second of two prayers, and the second prayer would become due when the permitted timing for it starts and shall remain due until performed. The second sub-form would result in sin of skipping the first prayer in the permitted timing, although the mandatory duty would be discharged if one performs it later. (5:159–313)

Section on Place of Prayer

Offering prayer on bed

Question: From Molvi Muhammad Hassan (Mainpuri), 11 Dhiqaddah 1311H.
Is it permissibile to offer prayer on bed? Reply and be rewarded.

Answer:
The rule in these situations is that it must be a thing which should allow the the head becoming stable on it and cannot be pressed further in prostration, despite effort. It would be permissible on such things, whether bed or anything else placed on floor like cart. It is stated in *Ghuniyyah*, "The rule is that if it cannot be pressed further, prostration would be permissible over it." It is stated in *Shami*, "The explanation of this rule is that the person performing prostration must not be able to press his head further; and for this, prostration is permissible on thick cloth, on wheat and barley, on bed and on cart standing on floor." (5:346–7)

Prayer on rail or boat

Summarized Question: from Muhammad Ibrahim (Delhi), 7 Shaban 1339.
What is the method of performing prayers on rail? Reply and be rewarded.

Summarized Answer:
Mandatory and obligatory and also sunnah prayer of morning cannot be offered on a moving rail. If the rail does not completely stop, one would offer the prayer and would repeat the prayer upon stoppage of the rail. Complete static condition of a thing on earth or its stay over a thing fixed on earth is condition for validity of prayers on that thing.

Prayer on animal cart which is static is not allowed for the reason that a part of cart is on animal and thus it is not fixed on earth. If it is possible to come down from boat to earth, prayer would not be permissible on the boat. Even where boat is on bank but still is on water and not staying on earth, prayer would not be permissible if he can disembark the boat because stay of boat is on water which is not fixed on earth.

If boat is sailing from which one cannot disembark, and even if it is stopped, its stay would be on water, therefore, its stay and sailing results in same situation. However, rail would stay on earth if it is stopped and would be similar to a tablet and its stoppage on earth is in control of human so the ruling would be to offer the prayer on moving rail and repeat upon removal of the obstacle. (6:136–7)

Chapter on Call to Prayer (*Adhan*) and Call for Start of Prayer (*Iqamah*)

The Shining of Eyes: On kissing thumbnails on hearing the Prophet's name

Munir al-Ayn fi Hukm Taqbil al-Abhamin (1301)

Question:
Is it permissible to kiss thumbnails and touch these with eyes on listening the name of the Prophet in a call for prayer? Reply and be rewarded.

Summarized Answer:
Kissing thumbs or index fingers and touching these to eyes on listening the Prophet's name during a call to prayer is permissible. There are large number of supporting arguments. Even if there were no specific argument, the absence of any prohibition in the Sharia would have been sufficient argument for its permissibility. One who opposes it should be asked to produce the arguments proving the prohibition. There are evidences for permissibility from hadiths, jurisprudence (*fiqh*), statements from ulema and the practice of earlier seniors (*Sulha*). (5:429)

The Sufficient Guidance: On validity of hadith with weak chain of transmission

Al-Hadi al-Kaf fi Hukm al-Di'af (1313)

Summarized Question:
Should the hadiths with weak chain of transmission (*dhayaf*) be followed?

Summarized Answer:
(1) There are three meanings of evidence from hadith. There is difference among level of rules proved with hadiths. First includes those that are so critical that it would not be proved until the hadith in support of it is well-known and *mutwatir*. In a matter related to faith, single hadith (*ahad*) would not be enough no matter how strong it's chain of transmission or narrators are. Second comprises of the rules of jurisprudence which although do not require the strength of the chain of transmission that is required for matters of faith but the authenticity of hadiths must be at least *sahih*; a *dhayf* hadith would not be admissible as evidence. Third relates to good attributes and praise of a person or act. Ulema have consensus that evidence of it even from a *dhayf* hadith is admissible. For example, if there is motivation for an act in a hadith by stating the reward (*thawab*) it would give, or a quality of a Prophet or Companion has been quoted stating the status or attribute given to him, a *dhayf* hadith would be a sufficient proof.

(2) In appreciation of an act, evidence from a *dhayf* hadith is not only permissible but is also recommended (*mustahab*). *Dhayf* hadith is sufficient for proving a recommended act.

(3) It is even proved from hadiths that in such acts (of which motivation has been stated) *dhayf* hadith may be acted upon. The Prophet has said that one who finds news of good in an act and performs that act with belief and expectation of reward, Allah would grant him that good even if the news is not accurate. In *Darqutni*, the words are "Allah would give that reward to him even if the hadith he has come to know is not accurate."

(4) Even wisdom requires that acting on *dhayf* hadith would be acceptable. It is because no matter how weak the chain of transmission is, there is no doubt about it being a hadith.

(5) A *dhayf* hadith is admissible proof even in juristic matters where there is no harm.

(6) Action according to a *dhayf* hadith does not require presence of a *sahih* hadith in discussion of the same chapter. The presence of only a *dhayf* hadith would also be sufficient proof.

(7) Presenting a *dhayf* hadith as evidence for permissibility or recommendation of such acts does not amount to making it evidence for matters of jurisprudence. Its purpose is not to make it evidence for matters of jurisprudence or argument for lawful or prohibited.

(8) All types of dhayf hadiths, except for false, would be admissible as evidence for such acts. (5:477–537)

The Orbits of the Hadiths' Classifications: On rules of the hadiths' classifications

Madarij-i Tabqat al-Hadith (1313)

Summarized Question:
What is your view on classes of hadiths as given in *Hujjat Allah al-Baligha*?

Summarized Answer:
(1) The author presents the four classes of hadiths from the book *Hujjat Allah al-Baligha*.

(2) The author presents a commentary on the citation for better organization and clarity that results in removal of potential doubts on the citation.

(3) The author then presents arguments to show that restricting the classes to four is neither comprehensive nor sufficient, and neither can this help a critical analysis nor support view of one who seeks support from this classification.

(4) The author presents a comprehensive rule which is helpful in critical analysis and seeking support. This follows the citations from views of earlier ulema in support of the rule. The author also relates the classes to which the six popular collections of hadiths (*Sihah-i Satta*) belong and relative positions. He also discusses other *siha* collections of hadiths. He then presents some critic and contributions of ulema in relation to the subject with evidence. (5:538–48)

A Path of Safety: On kissing thumbnails during the call to start prayer

Nahaj al-Salama fi Hukm Taqbil al-Abhamin fi al-Iqamah (1333)

Question: from Molvi Mukhtar Ahmed (Barhama), 26 Jamadi al-Akhir 1333. Is it permissible to kiss thumbnails and touch these to eyes on hearing the name of the Prophet during call to start prayer? The question and answer from a collection of fatwas *Fatawa-i Imdadiyyah* (*Fatawa-i Ashrafiyyah*) is presented for comments. Reply and be rewarded.

Summarized Answer:
The author advises to refer to his earlier book *The Shining of Eyes* (*Munir al-Ayn fi Hukm Taqbil al-Abhamin*) for details. The author then states that he

would discuss the specific blunders of the answer given in *Fatawa-i Imdadiyyah* here. He responds to the mistake of conclusion from position that no supporting hadith reaches to level of *marfu*. He points to the failure to appreciate difference between absence of a *sahih* hadith and absence of authentic hadith, and terms the failures as ignorance of Hadith Sciences. They author has presented critical analysis of flaws under 30 points. It is part of Muslims' faith to love and express devotion to the Prophet. Every form is permitted except where there is prohibition of a specific method or there is contradiction of the Sharia. Therefore, there is no bar on kissing thumbnails during a call for prayer and touching with eyes. (5:629)

Announcing the Reward: On reciting *adhan* besides the grave after the burial

Izan al-Ajar fi Adhan al-Qabar (1307)

Question:
Is it permissibile to recite *adhan* (call for prayer) besides the grave after the burial? Reply and be rewarded.

Summarized Answer:
The author presents his arguments under 15 points to prove that reciting adhan besides grave is beneficial in avoiding interference from Satan, in line with practice of the Prophet to pray for deceased, in line with practice of earlier Muslims, avoids fire (of the Hereafter), is remembering Allah (*dhikr Allah*) and thus beneficial and remover of potential punishment, remember the Prophet, relaxing for and decreases sadness of the dead. (5:653–77)

Chapter on Conditions that Precede Prayer

A Guidance from the Almighty: On seeking direction towards the Qibla

Hidayah al-Matal fi Had al-Istaqbal (1324)

Question: from Molve Bashir Ahmad (Aligarh), 24 Dhilhajjah 1324H.
The eidgah of Aligarh city is very old and eid prayer have been performed in it for years. However, now some people using modern techniques have claimed that the direction of eidgah is away from the direction facing the Qibla such that north pole is located behind right side resulting in incorrect facing of eidgah structure is deviating 90 feet away from the West. They say that demolishing and reconstructing the eidgah structure is mandatory for the Muslims of the city if they can afford to do it, else it would be severe improper to offer the prayer in it. They have published a fatwa on December 10, 1906 which states, "If the Muslims of the city have financial capacity to demolish and reconstruct the structure in correct direction, it would be mandatory for them to do so; and if they do not have such capacity, it would be mandatory for them to draw lines in the structure facing the correct direction and offer prayer standing on those lines; it is

stated in *Hidayah*, 'One who is away from the Kaaba must face the direction towards Kaaba while offering prayer, this is the correct view because burden is according to the capacity'." Is the direction from India towards the Qibla between the West, or not? Is the correction in the direction of the eidgah required, or not? Reply and be rewarded.

Summarized Answer:
The fatwa quoted in the question is incorrect. Construction of a structure of eidgah is not required in the Sharia so declaring it mandatory for Muslims to reconstruct it is wrong. Prayer in the eidgah would be void rather than improper if the eidgah is not in a direction within the limits for correct direction; and prayer in the eidgah would be valid if the eidgah is in a direction within the limits for correct direction, and it would be wrong to demolish in case the direction is within the limits. The citation from *Hidayah* supports the view that people outside Makkah are to face the direction in which the Kaaba is situated. The author then provides evidence that the direction of the eidgah is correct and within the limits of direction towards the Qibla. (6:61)

Wearing dress of revealing fabric for prayer

Question: From Mirza Ghulam Qadir Bayg (Calcutta), 5 Rajab 1311H.
If *tehband* (apron) is of thin fabric such that it reveals body, would prayer of the person wearing it be valid, or not?

Answer:
It is stated in *Dur* that a cloth that covers is one that does not reveal what it is covering. It is elaborated in *Shami* that it must not reveal the color of body. This also indicates that the *dupatta* worn by women would invalidate the prayer if it reveals the color of her hair. And Allah the Exalted knows better.

Chapter on Method of Prayer

Offering prayer while one is unable to stand for prayer

Question: from Mahmod Husain, 5 Moharam 1308H.
What do you say about the person who cannot offer prayer by standing because of disease but he has strength to say *tahrimah* while standing and offer remaining prayer while sitting, in this situation would it be necessary to say *tahrimah* while standing and offer rest of the prayer while sitting, or he may offer entire prayer while sitting? If he offers entire prayer while sitting, would the prayer be valid? Reply and be rewarded.

Summarized Answer:
In the stated situation, it is mandatory for that person to say *tahrimah* while standing and continue offering prayer while standing until he can do so and sit when he loses strength. If he does not say *tahrimah* while standing despite having strength, the prayer would be void.

Our jurists have stated that standing is a condition for *tahrimah*. If one says *tahrimah* while sitting, it would not be valid, and *tahrimah* is condition of prayer without which prayer is void; therefore, when he could stand for *tahrimah* but does not stand to do so, the condition of *tahrimah* is absent and prayer would be void.

Nowadays, a lot of people offer entire prayer while sitting on the excuse of some lack of strength or old age. Although, firstly, they could offer entire mandatory prayer while standing if they dare; and this would not result in increase in their disease nor would cause another disease, nor would they fall down. They would only face some difficulty avoiding which they lose prayers. I have observed that people who offer prayer while sitting on the excuse of disease or old age, the same people spend far more time talking while standing. Such people are required to offer entire mandatory prayer while standing.

Secondly, if he knows, from experience or a Muslim physician, that standing for long would result in a new disease or increase in existing disease, then he would be required to offer prayer so long he has strength, even if he has the strength to the extent of saying tahrimah, and then sit and complete the remaining prayer.

Thirdly, it does happen that one does not find strength to stand even for tahrimah, but if he could stand with support of a stick, wall or another person, then he would be required to seek that support and stand to the extent possible, else his prayer would be void. (5:157–61)

The Crest:
On covering body during prayer

Al-Turrat fi al-Satar al-Awrat

[The introduction to relevant volume of the original text mentions this book's name and biographies also contain similar reference. However, the translator is unable to find this book so far.] (5:6)

The Beauty of the Brevity:
On wearing shoes during prayer

Jamal al-Ajmal li Tawqif Hukam al-Salat fi al-Nal

[The introduction to relevant volume of the original text mentions this book's name and biographies also contain similar reference. However, the translator is unable to find this book so far.] (5:6)

Chapter on Recitation in Prayer

The Best Method:
On pronounciation of the Arabic letter *Daad*

Niyam al-Zad li Rom al-Daad

Summarized Question: from Molvi Muhammad Yahya (Rampur), 24 Shawal 1315H.
What do ulema say in the disagreement between some people as regards pronunciation of Arabic letter *daad* (ض) in *Ghayr al-Maghdob-i Alayhim wa al-ad Daalin*? Some say that as per practice of masses it should be pronounced like letter *da* (د) and some are of view to pronounce it is like letter *zaa* (ظ) or letter *za* (ز). Reply and be rewarded.

Summarized Answer:
All letters are different from one another and have different pronunciations. Accordingly, changing the pronunciation and reciting *daad* with pronunciation of any other letter is prohibited. (6:283)

Reigning the Wrong:
On the need to correctly pronounce the letter *Daad*

Al-Jam al-Suad an Sunan al-Daad (1317)

Summarized Question: from Muhammad Ismail (Darbhanga), 10 Jamdi al-Akhir 1317H.
What do ulema say about the issue that there are some people in Bengal who intentionally recite like letter *dhwa* (ظ) or letter *za* (ز) or letter *dha* (ذ) and insist others to do the same, and declare prayer as void where letter *daad* (ض) is pronounced such that pronunciation is slightly similar to that of letter *da* (د) as practiced by masses across India? Reply and be rewarded.

Summarized Answer:
First, letters *daad* (ض), *dhwa* (ظ), *dha* (ذ) and *za* (ز) are all different from one another and changing pronunciation of one to another in reciting the Quran in prayer or otherwise is prohibited and major sin. The author has presented arguments in this regard in his book *The Best Method* (*Niyam al-Zad li Rom al-Daad*).

Second, if prayer leader unintentionally pronounces *daad* like *daal*, it would be wrong to declare the prayer void. (6:303)

Chapter on Leading the Prayer

The Strict Prohibition:
On prayer behind *Ghayr-i Muqallid* prayer leader

Al-Nahi al-Akid an al-Salat Wara Adi al-Taqlid (1305)
also titled as
Kashaf-i Maqayd-i La-Mazhaban

Summarized Question: from Muhammad Fadal al-Rahman (Ferozpur), 10 Shawal 1305H.
Is it permissibile to offer prayers behind prayer-leader who is a *Ghayr-i Muqallid*? Reply and be rewarded.

Summarized Answer:
The sect of *Ghayr-i Muqaliddin* is enemy of *taqlid* of imams and a deceiver to Muslim masses. They call the four schools of laws as wrong, imams as monks, true Muslims as infidels and polytheists, consider meaning of the Quran, hadiths and views of imams as open for analysis of ignorant masses and declare an act or thing as prohibited which is in fact lawful (*halal*) and vice versa. It is apparent that the sect of *Ghayr-i Muqaliddin* is deviant.

There is no doubt that prayer behind a *Ghayr-i Muqallid* prayer leader is improper, disallowed and requires avoidance. It is not allowed to make them prayer leader and if they are prayer leader at a place and one cannot stop them from leading prayer, every Sunni would be required to offer prayer at any other place where prayer leader is a Sunni, even Friday prayer if he could find an alternate. If one offers prayer behind a *Ghayr-i Muqallid* prayer leader or comes to know the fact after the prayer, he would be required to repeat the prayer even if the timeline has lapsed, even if a long time has passed. The author has the following five arguments in support of his ruling.

(1) Their sect is among *ahl-i biddah* (innovators). It is stated in all legal texts, commentaries and fatwas that prayer behind a prayer lead who is among *ahl-i biddah* is improper (*makruh*). Research shows that this improper is *tahrimi* (near haram) which is sin and requires repetition of the prayer.

(2) *Ghayr-i muqallidin* are *fasiq* (openly sinful) and prayer behind a prayer leader who is *fasiq* is improper to the extent of *tahrimi*. The author presents the following reasons for calling them *fasiq*. First, they insult and call names to Muslims. Second, they insult ulema. Third, enmity to the residents of Arab and Hejaz. Fourth, this enmity involves insult and calling names. Fifth, their enmity with residents of Medina is even more. Sixth, they have enmity with *awliya* (friends) of Allah. Seventh, the summary of their faith is that almost all Muslims are polytheist.

(3) Their rulings are very different from and against rulings of Sunni jurists. They also have enmity with jurists of the four Schools of Law.

(4) Imam Abu Hanifa has stated that a scholar of creed who wants his opponent to err in matters of mandatory beliefs becomes kafir (infidel) because of his want that the opponent becomes kafir, and wanting a Muslim to do an unbelief (kufr) is accepting the unbelief which itself is unbelief.

(5) The biggest of their act which renders their belief as opposed to Islam is their calling of *taqlid* (following one of four schools of law) as polytheism and all followers of the four schools as polytheists of all eras after first two centuries of Islam. This means calling the tens of millions of Muslims of all subsequent centuries as polytheists. (6:647–721)

Congregation prayer behind a prayer leader who skips fasting

Question: from Najib Ullah Khan (Haripur), 23 Ramadan 1311H.
Is it permissible to offer congregation prayer behind a prayer leader who skips mandatory fasting although he is molvi and hafiz?

Summarized Answer:
One who skips mandatory fasting, without any admissible reason as per Sharia, is *fasiq*, and prayer behind a prayer leader who is *fasiq* is improper. One must not offer prayer behind such a person, even Friday prayer, if he could find another prayer leader who is steadfast (*muttaqi*).

Chapter on Congregation for Prayer

The Decorated Garland: Against absence from congregation for prayer

Al-Qiladat al-Marsat fi Nahr al-Ajubat al-Arbat (1312)

Summarized Question: from Molvi Muhammad Shafi al-Din (Kanpur), 16 Safar 1312H.

We need response of ulema in the following four situations.

(1) A man who has problem in a foot and faces problem in coming for night prayer and comes to masjid with another man before call to prayer and call for start of prayer and performs prayer with call for start of prayer, would that person get reward of congregation prayer, or not? Would the congregation prayer after that with call to prayer and call for start of prayer be improper, or not?

(2) Accompanying person skips the later congregation prayer on apprehension of mid-night prayer being skipped. Would this act be allowed?

(3) A person sleeps after lunch such that he misses congregation prayer of noon and justifies by claiming to be thus able to perform mid night prayer. Would this act be permissible, or not?

(4) A group of men, for some reason, offers its congregation prayer in masjid before regular call to prayer and call for start of prayer. Would this

be permissible? Reply and be rewarded.

Summarized Answer:
(1 and 4) The said act is improper.

(2) The apprehension of mid-night prayer being skipped cannot be reason for skipping a congregation prayer. It cannot be a reason to leave masjid once call for prayer has been announced.

(3) Missing congregation prayer of noon and claiming such an act as enabler to perform mid night prayer is non-sense. Our Prophet has not asked for such a sleep after lunch and mid night prayer that results in skipping congregation prayer. The person needs to review his sleep time so that he neither misses congregation nor mid night prayer. (7:65)

The Hanging Bunches:
On another congregation for a prayer

Al-Qatuf al-Daniyat li man Ahsan al-Jama al-Thaniyat (1313)

Summarized Question: from Habib ur-Rehman (Muradabad), 11 Jamadil al-Akhir 1313H.
Is another congregation without call for prayer and call to start prayer permissible or not? Reply and be rewarded.

Summarized Answer:
Another congregation prayer is permissible in the following situations. (1) The masjid is located at roadside, market, rail station or rest house for which people performing prayer are not known. People present or arriving offer prayer at such masjids and these do not belong to the people of locality. (2) The masjid belongs to a locality and some people from outside came and offered prayer with congregation. (3) Some local have offered prayer with congregation but without the call for prayer. (4) The local offered prayer with the call for prayer but the call for prayer was with low volume. (5) The people and locality are Hanafi and also those belonging to other schools of law, and prayer leader belonging to another school has led the congregation prayer who does not take care of related Hanafi rulings. (6) The prayer leader of another school is in general known for not taking care of related Hanafi rulings. (7) He is unknown. (8) Hanafi prayer leader is present to lead congregation prayer. (9) The first prayer was led by a person who is deviant. (10) The first prayer was led by a person who is known to be sinful. (11) He is ignorant of ignorant and does not know rulings about purification and prayer. (12) He incorrectly recites the Quran.

Except for the above-mentioned 12 situations, repetition of congregation prayer is disallowed. (7:113)

The Beauty of Expertise:
On analysis of injunction for congregation

*Husn al-Barat fi Tanqid-i Hukm al-Jamat (1299)**

Summary:
Our jurists have stated six opinions as regards attendance at congregation for prayer. The author has reconciled the differences of opinion and has stated situations to which these apply in light of hadiths and juristic principles. The author has proved from various hadiths that the Prophet made attending the congregation for prayer mandatory (*wajib*).

The Strong Rebuttal:
Against ruling about second congregation for prayer

Al-Radd al-Ashad al-Bahi fi Hijar al-Jamat al-Gangohi

[The introduction to relevant volume of the original text mentions this book's name and biographies also contain similar reference. However, the translator is unable to find this book so far and would add translation or summary here.]

Chapter on Factors that Nullify a Prayer

Passing before a person who is praying

Question: from Shokat Ali, 23 Jamadil Awla 1320H.
Does a person who passes, before another person who is praying, commit a sin? Does this act affect the prayer? How much distance should be kept while passing in front of a person praying?

Summarized Answer:
The prayer is not affected, however, the person passing in front has sinned. If the prayer is being offered in a house or small masjid, passing before is not allowed up to the wall in the direction of qibla unless there is an intervening barrier. If the prayer is being offered in a desert or big masjid, one may not pass over the location (*moda*) of prostration and may pass over beyond that.

'The location of prostration' here means as follows. While standing during prayer one keeps his gaze at the location of prostration of his forehead, the gaze as a principle extends, unless there is barrier, beyond the location being looked at. That extended location is within the meaning of

'the location of prostration,' one may not pass over it, and passing beyond it would be allowed.

The author has discussed details of size of small and big masjid elsewhere in my collection of fatwas.

Prompting prayer leader to rectify prayer

Question: from Haji Abd Allah Khan (Banglore), 23 Moharam 1339H.
What do you ulema say as to whether prayer leader offering Friday prayer may be prompted, or not? If prayer leader is prompted, would the prostration of error would be permissible, or not? Reply and be rewarded.

Answer:
Prompting prayer leader to rectify error is allowed in all prayers whether it is Friday prayer or any other prayer. In fact, if the prayer leader errs that may nullify the prayer, prompting would be obligatory, and prayer of all would be invalidated. The prompting does not require prostration for error. And Allah knows better.

Chapter on Acts that Render Prayer Improper

Accuracy of Crowns: On rules for prayer leader while he stands in mihrab

Tijan al-Thawab fi Qayam al-Imam fi al-Mahrab (1320)

Summarized Question: from Maulana Abd al-Salam (Jabalpur), 6 Jamdil Akhir 1320H.
(1) Is it improper for prayer leader to offer prayer outside mihrab in courtyard of masjid, or not? (2) Is it permissible for prayer leader to lead prayer such that he stands outside the mihrab but prostrate in the mihrab? Reply and be rewarded.

Summarized Answer:
It is sunnah that prayer leader stands at center of the rows, and the center is ensured by the location of mihrab. Where center of rows and place of mihrab are not the same, the prayer leader is required to stand at center of rows (actual *mihrab*) rather than the apparent mihrab. It is stated that manner of second congregation for a prayer be different and change in location of prayer leader, away from apparent mihrab, is allowed in certain books.

Therefore, these two are different situations for which different rulings are present.

It is permissible for prayer leader to lead prayer such that he stands outside the apparent mihrab but prostrate in the mihrab. Where his location coincides with the actual mihrab (center of rows), it would also be sunnah. (7:321)

Folding cuffs above elbows and pulling up trouser in prayer

Question: from Muhammad Zahur Muhammad (Bareilly), 12 Shawwal 1327. (1) What is the ruling about prayer of a person who pulls up trouser while proceeding for prostration in every *rakah* of prayer? (2) What is the impact of folding cuff above elbows, on prayer?

Answer:
(1) It is improper. (2) It would be severely improper and would make it mandatory for the person to offer the prayer again, and it would be a sin for him if he does not offer the prayer again.

Covering head through handkerchief for prayer

Question: from Muhammad Husain (Nainital), 15 Rabi al-Awwal 1338H. (1) Is it permissible to cover head through handkerchief during prayer? (2) Is it permissible to cover head with scarf without cap beneath it? Reply and be rewarded.

Answer:
(1) If the scarf is bigger such that it can completely cover the head, it would be *imama*. If it is small that is enough only for one or two rounds around head, its usage for prayer would be improper. (2) Covering head with *imamah* or scarf without cap beneath these is not allowed. It is stated in hadith, "Difference between us (Muslims) and polytheists is that we wear *imamah* over cap." And Allah the Exalted knows better.

Chapter on *Witr* and Supererogatory (*Nawafil*) Prayers

Prevention from the Wrong Doers: On reciting *Qunut-i Nazila* during hardship

Ijtinab al-Ummal an Fatawa al-Jahal (1316)

Summarized Question: from Zia al-Din (Partagiz), 26 Jamadil Akhir 1316. What do ulema say about fatwa that injunction for reciting *Qunut* in morning prayer in case of disaster or attack of infidels is still permissible but cancelled for any other hardship? Reply and be rewarded.

Summarized Answer:
Our ulema have not stated any restriction as to the type of hardship in which *Qunut* can be recited. The author then presents numerous citations from books of jurists and books of hadiths to indicate that the citations are unqualified as regards the types of hardship during which *Qunut* may be recited. Accordingly, recitation of *Qunut* is permissible during all types of hardships including famine, drought, calamity and pandemic like plague. The author states that the fatwa referred in the question is incorrect. (7:487)

The Streams of Divine Lights: On benefits of performing prayer seeking help

Anhar al-Anwar min Yam Salat al-Asrar (1305)

Summarized Question: from Hafiz Abd al-Aziz (Delhi), Rabi al-Awwal 1305H.
Is it permissible to offer *Salat al-Asrar* that is *Namaz-i Ghauthiyyah*? Reply and be rewarded.

Summarized Answer:
The said prayer is well-narrated by and has been in practice of our ulema and sufis. No evidence exists of its prohibition by the Sharia. (7:569)

The Blooming Flowers: On the method of performing prayer seeking help

Azhar al-Anwar min Saba-i Salat al-Asrar (1305)

Summarized Question: from Muhammad Ibrahim Qadiri (Hyderabad), 1305H.
What is the method of *Salat al-Asrar*? Please grant permission to offer it.

Summarized Answer:
The permission is granted. Shaykh Abd al-Qadir has been quoted as saying that whoever seeks my *wasilah* in any problem, the problem would be resolved, and whoever seeks my help in need the need would be fulfilled, and whoever offers two *rakahs* after evening prayer and walks 11 steps towards Iraq calling my name, Allah would fulfil his need.

Attributes of the Correct View: On reciting *tasmiah* aloud in *tarwihat*

Wasaf al-Rajih fi Bismilah al-Tarawih (1312)

Summarized Question: from Shaykh Abd al-Jalil (Barabanki), Dhiqaddah 1303H.
Is it allowed to recite *tasmiah* at start of every *tarwihah* prayer?

Summarized Answer:
Recitation of *tasmia* aloud is required once while offering *tarwihat* prayer, wherein the recitation of the Quran is completed., and *tasmiah* would not be

recited aloud more than once in *tarawih*, according to the Hanafi jurists. (7:659)

Securing the Favor: On status of mid-night (*tahajjud*) prayer

Riyat al-Minnah fi an al-Tahajjud Nafil au Sunnah

[The introduction to relevant volume of the original text mentions this book's name and biographies also contain similar reference. However, the translator is unable to find this book so far and would add translation or summary here.]

A Sufficient Decoration: On discussion about sitting in prayer

Azin al-Kafil bi Hukm al-Qada fi al-Maktubat wa al-Nawafil

[The introduction to relevant volume of the original text mentions this book's name and biographies also contain similar reference. However, the translator is unable to find this book so far and would add translation or summary here.]

Chapter on Law about Masjid

The Perfect Guidance:
On inclusion of courtyard of masjid in its definition

al-Tabsir al-Munjid ban Sahan al-Masjid Masjid (1307)

Summarized Question: from Molvi Abd al-Haq (Surat, Gujrat), 27 Jamadi al-Awwal 1307H.
The courtyard of a masjid is used for daily congregation prayers of morning, evening, night, and sometimes afternoon is performed. The masjid is near market therefore many people visit it to offer prayers. Sometimes many visitors offer prayer of afternoon and evening with congregation, after the regular congregation prayer. Would this courtyard be included in legal definition of masjid? Reply and be rewarded.

Summarized Answer:
A courtyard of masjid is part of masjid. (1) A masjid is a place that has been declared waqf for offering daily prayers. The construction does not affect the definition of masjid and accordingly courtyard within that place is also part of masjid. (2) To cater for seasonal changes in weather, constructed units have an enclosure, to protect from rain and sunlight, and a courtyard to have ventilation and avoid heat. Both these are parts of constructed unit.

For the purpose of those benefits, there are also two parts in masjid. (3) Those offering prayer in the courtyard consider it part of masjid and have the intention of offering prayer in masjid during prayer. (4) Those who come to masjid and offer prayer in courtyard therefore the view of excluding the courtyard from legal definition of masjid would render the arrival in masjid all the way from home without benefit if one offers prayer in courtyard. (8:59)

The Best Objective:
On prohibition of some activities in masjid

Ahsan al-Maqasid fi Bayan ma Tanziha an al-Masajid

[The introduction to relevant volume of the original text mentions this book's name and biographies also contain similar reference. However, the translator is unable to find this book so far and would add translation or summary here.]

Chapter on Catching the Definitive Obligation

Sunnah prayer and congregation prayer of morning

Question: from Mulla Yaqub Ali Khan (Ujayn), 22 Shaban 1311H.
Bakr has arrived after ablution for congregation prayer of morning at such a time that prayer leader is sitting towards end of second *rakah*. If Bakr offers sunnah prayer of morning, he would miss the congregation, and if joins the congregation, he would miss the sunnah prayer. Should he offer the sunnah prayer or join the congregation? Reply and be rewarded.

Answer:
In such a situation, he should join the congregation prayer that is more important and needed, in line with the consensus of jurists. When he is apprehensive that he would miss even last part of the congregation if he offers sunnah prayer, he would be required to join the congregation even if the prayer leader has just started second *rakah*. He may not expect to join the congregation after sunnah prayer, if the prayer leader is already in sitting towards the end of second *rakah*. It is stated in *Dur*, "Where one is apprehensive of missing congregation prayer of morning if he offers sunnah

prayer, he would be required to join the congregation because congregation is more important."

One who has performed obligatory prayer before congregation

Question: from Mulla Yaqub Ali Khan (Ujayn), 22 Shaban 1311H.
What should a person do if the congregation prayer starts in his presence in masjid after he has already offered mandatory prayer? Reply and be rewarded.

Answer:
He should join the congregation prayers of noon and night because if he leaves after call for start of prayer, he would be doing an improper act and would also be accused of skipping the congregation. He should not join prayers of morning, afternoon and evening because, as per the opinion of majority of jurists, supererogatory prayer cannot consist of three *rakahs* and if he adds one *rakah* it would be improper for opposing act of the prayer leader. Supererogatory prayer after obligatory prayer of morning and afternoon are already improper and it would be more improper if he remains seated; therefore, it he should leave and go outside….

Chapter on Delayed Substitute Performance (*Qada*) of Lost Prayers

Manner of offering delayed substitute performance

Question:
What do should one do if there are a lot of lost prayers? How should he state intention while starting delayed substitute performance of lost prayers? Delayed substitute performance of which lost prayers can be offered? Is there any way that decrease in effort for one who has large number of lost prayers so that he may offer delayed substitute performance quickly? Reply and be rewarded.

Answer:
Delayed substitute performance is only 20 *rakahs* for daily prayers that were lost: two *rakahs* for obligatory prayer of morning, four for noon, four for afternoon, three for evening, and four for night with three *rakahs* of *witr* prayer.

He should state his intentions as "I intend to offer first morning prayer, evening prayer etc, that I lost," as the case may be. He should always state his intention while starting delayed substitute performance of lost prayers in this manner.

One who has large number of lost prayers may do the following for ease. First, while bowing and prostration in every *rakah*, he may recite *subhana rabbi al-azim* or *subhana rabbi al-ala* once instead of three times. However, it must always be remembered in every prayer that one should start reciting these words after he has completely bowed and raise up after completing these. Similarly, one must be careful of this in reciting the related words in prostration. Many people recite these words while bowing down, raising up and moving to prostrate or moving up from prostration, and this is their wrong act.

Second, he may proceed to bowing only in third and fourth *rakah* of obligatory (*fard*) prayer by just reciting *subhan Allah* three times. Again, the words should not be recited while moving into or out of bowing. This method does not apply to *witr* prayer.

Third, while sitting toward the end of last *rakah*, instead of reciting blessings for the Prophet and praying, he may only recite *Allahuma Salli ala Muhammad wa ala alayhi* and proceed for salutations.

Fourth, in third *rakah* of *witr* prayer, he may recite *Allahu akbar* and recite *Rabigh-firli* once or thrice, in place of *qunut* pray.

Delayed substitute performance of sunnah prayer of morning

Question:
What do ulema say about delayed substitute performance of sunnah prayer of morning (*fajar*)? Reply and be rewarded.

Answer:
Where sunnah prayer of morning are lost and the person has offered obligatory prayer of morning, he may offer the questioned substitute performance after the sunrise and before the noon (*nisf al-nahar*); offering these before the sunrise is disallowed and improper according to the rulings of our jurists. The Prophet informed, "After morning (starts), there is no prayer until the sunrise." And Allah the Exalted knows better.

Chapter on Prostrations of Error During Prayer

Prostrations of error for mistake of skipping part of recitation

Question: from Hafiz Abd Allah Khan (Bareilly), 29 Jamadi al-Akhir 1337H. A person offering prayer forgets to add recitation from the Quran after reciting Surah Fatiha, and he offers prostrations of error, would the prayer be valid or not? Reply and be rewarded.

Answer:
If he recalls the mistake while he bows, he must return to standing position, do recitation and then offer bowing. At end of prayer, he would offer prostrations of error.

If he recalls after he has already moved to prostration after bowing, he would offer prostrations of error at end. His prayer would be valid and he would not be required to redo it. And Allah knows better.

Salutations before prostrations of error

Question: from Qadir Bakhsh (Barkhan, Balochistan), 14 Rabi al-Awwal 1337
Do the prostrations of error are followed by salutation on one side or both sides? Is the ruling different for prayer of individual and congregation?

Answer:
Salutation on only right side is required whether it is prayer of individual or congregation, so much so that jurists have stated that if salutation on both sides is offered, the prostrations of error cannot follow and the act shall be a sin. And Allah knows better.

Chapter on Prostrations of Recitation

Timing of prostration of recitation

Question: from Muhammad Ibrahim (Marehra), 15 Rabi-ul Awwal 1306H. Is it obligatory to offer prostration of recitation immediately upon related recitation, or it may be performed later? Reply and be rewarded.

Answer:
If the prostration of recitation becomes due while one is offering prayer, it would be obligatory to offer it immediately, so much so that delay beyond recitation of two or three further verses would be sin.

If the prostration of recitation becomes due outside a prayer, it would be better to offer it immediately where there is no excuse because one may forget to offer it later. Hence, ulema have stated the delay as slight (*tanzihi*) improper, but they have not prohibited the delay. It is stated in *Dur*:

> The selected (*mukhtar*) view is that prostration of recitation is not to be offered immediately upon becoming due and deferment of it is slight (*tanzihi*) improper, unless the prostration of recitation has become due while one is offering prayer. If the prostration of recitation becomes due while one is offering prayer, it would be obligatory to offer it immediately because in this case it would be part of the prayer and delay in offering it would be a sin.

It is stated in *Shami* (a famous commentary on *Dur*):

> Explanation of the word "immediately" is that the time difference between the recitation (making prostration obligatory) and the prostration is not to the extent of time taken to recite two or three (Quranic) verses.

And Allah knows better.

Prostration of recitation when the reciter needs to ablute

Question: from Amanat Ali Shah (Nawabganj, Bareilly), 17 Ramadan 1331H.
(1) If a person is reciting the Quran and has not performed ablution and the prostration of recitation becomes obligatory, how would he offer prostration of recitation later? Would he be required to intend for prostration of recitation later? Reply and be rewarded.

(2) If a person has performed ablution and reciting the Quran on prayer mat with the Quran before him and the prostration of recitation become mandatory, should he move aside the Quran and offer the salutation of recitation, or not? If yes, should he keep the Quran opened or close the book? Reply and be rewarded.

Answer:
(1) Prostration of recitation after delay is also performed in the same manner as it would be performed immediately upon becoming obligatory. The intention to offer prostration of recitation has to be there while offering the prostration. With this intention, the person should proceed from standing position to prostration saying "*Allah Akbar*" and should raise up saying "*Allah Akbar*." No other intention is to be recited for it.

(2) There is no specific instruction in this regard. One may follow as per the ease, and the honor of the Quran is to taken care of. There is no harm if the Quran in the direction of the prostration. And Allah the Exalted knows better.

Prostration of recitation while offering *tarawih* prayer

Question: 1331H.
If the prayer leader while reciting the Quran in *tarawih* reaches the verse requiring prostration of recitation, can the prayer leader offer the prostration of recitation, or not?

Answer:
Whether it is *tarawih* prayer or any other prayer, if one recites a verse that requires prostration of recitation, the prostration becomes due immediately and delaying it, by a time in which three verses are recited, is sin. And Almighty Allah knows better.

Chapter on Praying During Journey

Change in *rakahs* of prayer during journey

Question: from student Ghulam Jan (Bareilly), 18 Shawal 1337H.
Where a person on whom *qasar* of prayer is applicable willfully offers full prayer with the intention of seeking more reward, would he be committing a sin, or not?

Answer:
He would be committing a sin without doubt. The Prophet has informed, "The *qasar* is a *sadaqah*; it is *sadaqah* from Allah the Exalted and you are to accept it." And Almighty Allah knows better.

Measure of distance that changes prayer during journey

Question: from Shaykh Abd al-Aziz Basati (Bareilly), 2 Dhiqaddah 1330H.
(1) How many *farsang* are there in a *manzil*?
(2) Journey of how many *manzil* would result in the *qasar* of prayer?
(3) Would the distance of *manzil* be calculated on straight line or the path taken for the journey?
(4) Baisalpur is 18 *kos* from here through horsecart and 36 *kos* through rail, what distance would *qasar* the prayer?

Answer:
(1) In customary manner, 1 *manzil* eqals 12 *kos*, and 1 *kos* is 8/5 mile, that is 1 mile and 3/5th of a mile. 1 *farsang* equals 3 miles. Accordingly, 1 manzil is equal to 6 *farsang* and 2/5th of *farsang*.
(2) *Qasar* of prayer is on a journey of 3 *manzil*.
(3) The path of journey is to be relied upon.
(4) *Qasar* of prayer would be applicable in case of travel by rail.

Chapter on the Friday Prayer

A Treasure of Pearls: On praise of sultan in the sermon

Mirqat al-Jaman fi al-Habut an al-Minbar li Madh al-Sultan (1320)

Summarized Question: from Molvi Abd al-Rahim (Ahmadabad), 16 Rabi al-Awwal 1320.
Is it permissible for the orator to move down a few steps from pulpit (*minbar*) while he proceeds to say words in praise of the sultan during the sermon before the Friday prayers?

Summarized Answer:
The mention of sultan in the sermon is although a later practice but it has established as a requirement of state so much so that having a currency and mentioning of sultan in sermon are considered symbols of statehood of a ruler, and in such Islamic states if the orator skips mentioning sultan in the sermon, he might be punished for the omission. If he insists on the omission, he would be considered a traitor and one who does not accept

the rule over the state. In such a situation an allowed (*mubah*) or even improper (*makruh*) act becomes required and obligatory (*wajib*). For centuries, sultans have been among wrong doers (*fasiq*), and there is no doubt that sultan would be angry on omission of his praise from the sermon, wheras praise of a wrong doer is prohibited by the Sharia.

In such a hostile situation, orators felt the need to distinguish the part related to praise of sultan from the sermon such that the distinction is not felt and an adverse situation is avoided. Accordingly, they started practice of moving down few steps of pulpit to change the session to the extent practical.

Where a hostile situation is faced, the orators may opt for the said practice with this intention. Where a hostile situation does not exist, it would not be permissible to adopt such a practice for praise of a sultan who is wrong doer. If he is not a wrong doer, words to show his stature may have a reason and may not be disallowed. However, in such a situation, ulema should skip such praise or even mentioning of sultan sometimes so that masses do not confuse it with a required practice. (8:413)

A Flexibility in Views:
On pray between the sermons for Friday prayer

Riyat al-Mazhabayn fi al-Dua-i bayn al-Khutbayn (1310)

Question: from Molvi Abd al-Haq (Surat), 15 Jamadi al-Akhra 1310H.
In our area, people pray, raising their hands, between the two sermons for Friday prayer with a lower voice. Some people have opposed this practice calling it improper, strictly prohibited, wrong innovation and polytheism. You are, therefore, requested to provide reply that decides this fight and settles the dispute among Muslims.

Summarized Answer:
There is no doubt about permissibility of such a pray for the prayer leader, and absence of any prohibition in the Sharia is enough for this. Prohibited is one that has been prohibited by the Almighty Allah and the Prophet has declared so, without such a declaration nothing can be prohibited especially the act of pray for which motivation has been given in the Quran unconditionally.

Hadiths have stated pray as a worship and the sprit of worship. There is an authentically transmitted hadith that reports the Prophet praying with raised hands for rain during sermon of a Friday and then praying in the same manner during sermon on the next Friday for stoppage of rain in Medina. Those prays by the Prophet involved stopping in between a sermon to pray, therefore, the permissibility of pray between the two sermon is even more

clear. Accordingly, ulema have clearly stated its permissibility in books such as commentaries on books of hadiths. (8:477)

A Sufficient Light: On the call (*adhan*) for Friday prayer

Aufi al-Lamah fi Adhan-i Youm al-Jumah (1320)

Summarized Question: from Molvi Mumtaz al-Din (Sylhet, Bengal), 11 Dhilhajjah 1320H.
Should the call for prayer be made inside masjid? Should the second call for prayer on Friday be made inside the masjid before the orator, or outside?

Summarized Answer:
Our jurists have stated in *Khaniyyah*, *Khulasa*, *Fath*, *Nazm*, *Sharh Niqayah* of Birjindi, *Bahr*, *Hindiyyah*, *Tahtawi ala Maraqi al-Falah* and other books that it is improper to make call for prayer inside masjid. It is stated in *Khaniyyah*, "that is call for prayer be made either on minaret or outside masjid, and call for prayer must not be made inside masjid." Same wording is given in *Hindiyyah*. It is stated in *Fath*, "Call to start prayer must be inside masjid; whereas call for prayer is to be on minaret, and where there is no minaret, it must be on floor outside masjid; and they (ulema) have stated that call for prayer must not be made inside masjid." (8:497)

The Fragrances of Ambergris: 2nd call to Friday prayer to be in front of minbar

Shamayimat al-Anbar fi Adab-i al-Nida-i Imam al-Minbar (1333)

[The translation of this book may be seen in the Book of Various Issues' Chapter on Call for Prayer, Prayer and Masjid.]

The Rays of Elegance: On holding Friday prayer in cities

Lawama al-Baha fi al-Misar lil Jumah wa al-Arba Aqibaha

[The introduction to relevant volume of the original text mentions this book's name and biographies also contain similar reference. However, the translator is unable to find this book so far and would add translation or summary here.]

A Notable Insistence:
On limits of city for holding Friday prayer

Mayajla al-Asar an Tahdid al-Misar

[The introduction to relevant volume of the original text mentions this book's name and biographies also contain similar reference. However, the translator is unable to find this book so far and would add translation or summary here.]

Chapter on Prayer of Two Eids

A Joy of the Happy Eid: On raising hands for pray after Eid prayer

Surur al-Id al-Said fi Hal al-Dua-i Bad Salat al-Id (1339)

Summarized Question:
Is it permissibile to pray with raised hands after Eid prayer? The Wahhabis refer to a fatwa of Shaykh Abd al-Hay Lucknawi and ask Muslims to avoid pray after Eid prayer. Reply and be rewarded.

Summarized Answer:
Imam Muhammad Shaybani has narrated it from Imam Abu Hanifa who has narrated it from Imam Hammad Ibn Abi Suleman who has reported that Imam Ibrahim Nakhi, a *tabai* (people who leared from the Companions of the Prophet), informed that Eid prayer was offered before the sermon and then the prayer leader would pray and the prayer was offered without call for prayer and call to start prayer. In this way, this practice is a sunnah of *tabayin*. For further discussion, the author presents arguments in two parts. (8:511)

A Good Scarf:
On embracing each other after Eid prayer

Wisha al-Jayyad fi Tahlil-i Muaniqa al-Id (1312)

Summarized Question:
What do ulema say about the act of Muslims who embrace (hug) each other after Eids' prayer? Is it permissible only for a person who is travelling?

Summarized Answer:
Embracing each other with affection and pure intention, wearing dresses and without lust, is permissible according to the consensus of jurists. There are numerous hadiths and decisions of jurists that support this permission. Limiting it to travellor is baseless. Hadiths and jurists' decisions on this are unqualified (applicable generally), and limiting or qualifying these is against the related principle of the Sharia. (8:601)

Chapter on Prayer Seeking Rain

Manners of the prayer seeking rain

Question: from Mazhar Husain (Muradabad), 23 Dhiqaddah 1331H.
Is the prayer seeking rain a prayer or a pray? What time should it be offered? Please reply and be rewarded.

Answer:
Prayer seeking rain is a sunnah, accordingly to Imam Abu Yusuf and Imam Muhammad. It is offered when there is dire need of rain and hope of it has been lost.

Massess must offer the prayer seeking rain according to its rules. Its base comprises reverence and submissiveness which is apparently absent from hearts of Muslims, may Allah improve the condition.

We live with non-Muslims in this country and with our way of not praying as we should pray and not offering prayer as we should offer prayer we must not let them laught at us. For this, it would be reasonable that we do it the way as mentioned in the Quran for seeking rain, that is seeking forgiveness of the sins and getting our attention towards Allah, the Exalted and the Forgiver.

It is stated in the Quran, "I therefore told them, 'Seek forgiveness from your Lord who is indeed the Most Forgiving;' Allah will send down

abundant rain for you from the sky."

And Allah the Exalted knows better.

Chapter on Funerals (*Janayz*)

Section on the Shroud (*Kafan*)

The Beautiful Letter: On writing blessed words over a shroud

Al-Hurf al-Hasan fi al-Kitabat ala al-Kafan (1308)

Question: from Sayyid Muhammad Ibrahim (Marehra), 9 Rajab 1308H.
Is the use of a fabric sheet taken from holy places, having verses of the Quran and hadiths written on it, as shroud of dead permissible? Is it permissible to place *shajra* (written pages containing names of the masters in a sufi order) in grave? Reply and be rewarded.

Summarized Answer:
The author has divided the reply in four parts. (1) The author presents evidence from the books of Hanafi jurists on permissibility of writing on shroud and hadiths and statements of jurists in support. (2) The author presents hadiths as evidence for usage of holy items as shroud or placement of these on body of a dead, and this practice was not considered against the due respect. (3) The author presents reply to some later Shafai jurists who

wrote writing on shroud as disrespectful. (4) The author discusses permissibility of placing *shajra* (pages containing names of the masters in a sufi order) in grave. (9:107)

Section on Prayer over the Deceased

An Amazing Desire: On prays for funeral prayer as stated in hadiths

Al-Minat al-Mumtazah fi Dawat al-Janazah (1318)

Question: from Sayyid Abd al-Karim, 25 Jamadi al-Akhir 1318H.
What are the prays (given in hadiths) for funeral prayer?

Summarized Answer:
There are 13 prays in hadiths for a funeral prayer. I have gathered these and have added one more. The author then copies all those 14 prays in Arabic language and also translate those into Urdu language. The author then reproduces hadiths in which manners of advising the dead, after funeral has taken place, are stated. (9:209)

The Distribution of Prizes: On pray for the dead after the funeral prayer

Bazl al-Jawayz ala al-Dua Bad Salat al-Janayz (1311)

Summarized Question: Madarasa Faiz-i Aam (Kanpur), 12 Rajab 1311H.
After funeral prayer has ended, is it permissible for the people offering funeral prayer including the prayer leader to pray for the dead in the same position?

Summarized Answer:
Earlier this year (1311H), the author received a similar question from Mumbai but it was about prays for deceased after the change of position upon finishing a funeral prayer. This question is about without changing the position. Our imams of Ahl-i Sunnat have a long history of consensus over the permissibility of praying for deceased Muslims. There are verses and hadiths that unconditionally support the prays, without limiting the permissibility of these to any particular time. The author then adds hadiths (other than those given in the earlier fatwa) and juristic statements on the permissibility. (9:239)

The Barrier for Prevention: On illegality of another funeral prayer for a deceased

Al-Nahi al-Hajiz an Takrar Salat al-Janayz (1315)

Question: from Molvi Kalim Raza (Gaya), Rajab 1315H.
If guardian of the deceased has offered funeral prayer over the deceased with other Muslims and he prays another funeral prayer, would this repeatation of funeral prayer be permissible or not?

Summarized Answer:
Offering another funeral prayer for a deceased is disallowed and impermissible as per our imams. However, if a person other than the *wali* prays over the deceased without permission of the *wali*, the wali has the right to repeat the prayer. (9:269)

The Guide to Prevention: On illegality of funeral prayer in absence of dead body

Al-Hadi al-Hajib an Janaza al-Ghayb (1326)

Question: from Shaykh Abd al-Jalil (Barabanki), Dhiqaddah 1303H.
(1) Is is permissible according to the Hanafi school of law to offer another funeral prayer for a deceased after the guardian of the deceased has already offered it along with other Muslims? (2) Is it permissible to offer funeral prayer for a deceased in absence of his dead body? (3) If person leading the funeral prayer is from Shafai school of law, would it be permissible for Hanafi Muslims to offer the prayer under his lead? In the districts of Bangalore and Madaras (Deccan), this is a very important matter. We hope the language of reply would be easier to understand.

Summarized Answer:
(1) According to the Hanafi school, if the guardian of the deceased has offered funeral prayer for the deceased or funeral prayer has been offered with his permission (even the one that the guardian joins after the prayer has started), it would not be permissible to offer another funeral prayer of that deceased. The Hanafi jurists have consensus over this matter. I have written details of this in my book *The Barrier for Prevention* (*Al-Nahi al-Hajiz*). (2) According to the Hanafi school, funeral prayer for the deceased in absence of the dead body is also disallowed. The Hanafi jurists have consensus over this matter too. (3) Since both, another funeral prayer and the one in absence of the dead body, are disallowed, a Shafai prayer leader cannot be followed in the these. (9:317)

Section on Burial

Condemning the Wahhabis: In protecting the sanctity of the Muslims' graves

Ahlak al-Wahhabin ala Tohin Qubur al-Muslimin (1322)

Summarized Question:
Is it permissible, according to the Hanafi school, to intentionally demolish old graves of an old graveyard and contruct houses over the land for living? Would the act be an insult to the Muslims buried in those graves, or not?

Summarized Answer:
In the questioned situation, it would not be permissible to demolish the graves and contruct houses over that land, according to the Hanafi school, and this would certainly be an insult to the Muslims buried in those graves and such an act is also disallowed. (9:429)

A Light of the Minaret: On installing lights at shrines

Bariq al-Minar Bi Shamu al-Mazar (1331)

Summarized Question: from Molvi Muhammad Ahmad Alvi (Lucknow), 8 Dhilhajjah 1331H.
Is it permissible to install lights at the shrines of *awliya* (friends of Allah)?

Summarized Answer:
Imam Abd al-Ghani al-Nabulsi has stated in *Hadiqah*:

> My father has reported in *Hashiyyah ala Durar wa Ghurar* from *Bazzaziyyah* that carrying candles towards graves is innovation and waste of assets. This is applicable only where carrying candles is devoid of any benefit. And if there is benefit in lighting the candles, for example, there is a masjid near the graves, or the graves are located along side road, or someone is sitting there, or the grave is a shrine of one of the *awliya* or ulema and the candles are lighted there in honor of their spirits which is lightening the body like the Sun illuminates the Earth, so that people become aware of the shrine of one of the *awliya* and take benefit from it and pray to Allah the Exalted in the shrine in an attempt to obtain acceptance of the pray, then the act of carrying candles towards the graves would be allowed and not prohibited. And the acts depend up the intention…The Prophet has cursed the women visting graves, constructing a masjid over graves, and placing lights on graves, that is, on people who put up lights on graves without any beneficial purpose of it, as I have stated. (9:485)

Aggregating the Divine Light: On prohibiting women's visits to graves

Jumal al-Nur fi Nahi al-Nisa an Ziyarat al-Qabur (1339)

Summarized Question: from Molvi Abd al-Rahim (Ahmadabad, Gujrat), 28 Safar 1339H.
Is it permissible for women to visit graves?

Summarized Answer:
I know the citations from legal texts allowing women to visit graves. However, in line with the opinions of our later jurists, I am of the opinion that women's visit to grave is illegal, in view of the current situation. (9:541)

The Scented Proof: On fixing days for and arranging to pray for a deceased

Al-Hujjat al-Fayhita li Tayyab al-Tayyun wa al-Fatiha (1307)

Summarized Question: from Abd al-Jalil (Barabanki), Dhiqaddah 1303H.
Are periodic events held for reciting *fatiha* for benefit of a dead person permissible, or not?

Summarized Answer:
The acts for divine benefit of deceased Muslims are favorite and allowed by the Sharia. The Ahl-i Sunnah have consensus over this. There are many hadiths and citations from legal texts, like *Fath*, *Nasab al-Raya*, *Sharah al-Sadur*, *Maslak-i Mustaqsit* in support of activities to secure divine benefit for deceased Muslims. (9:569)

The Arrival of Souls: On departed souls' visit to their houses

Ityan al-Arwah li Diyarihim Baad al-Rawah (1321)

Summarized Question: from Abd al-Jalil (Barabanki), Dhiqaddah 1303H.
After death, do souls (ruh) of deceased visit their houses in this world?

Summarized Answer:
Shaykh Abd al-Haq has stated in *Sharh Mishqat*:

> Upon departure of soul from this world, it is recommended (*mustahib*) to pay alms (*sadaqah*) for divine benefit of the deceased. Alms on behalf of deceased Muslims are beneficial for them…. Souls visit houses on the

night preceding Fridays. (9:649)

A Clear Announcement: Against festive gathering at a deceased's house

Jali al-Saut li Nahi al-Dawat-i Amam Maut (1309)

Summarized Question:
Is stay of relatives at a deceased's house for days, which involves spending by the deceased's family on their food etc, permissible?

Summarized Answer:
Such a tradition is not allowed, is improper and involves sins. There are many hadiths and wording in books of jurists against it. (9:661)

The Life of the Dead: On explaining the hearing ability of deceased

Hayat al-Mawat fi Bayan Sama al-Amwat (1305)

Summarized Question: Rajab 1305H.
Do the rulings about "no violation of vow for not talking if the person talks to the other person after death" support inability of deceased to hear?

Summarized Answer:
The author presents 60 hadiths and citations from books of 100 earlier imams and ulema to prove that soul does not die and its attributes and acts remain intact after death of a person. (9:675)

The Ordered Matching: On hearing of and response by deceased

Al-Wifaq al-Matin ben Sama al-Dafin wa Jawab al-Yamin (1316)

Summarized Question: from Abd al-Jalil (Barabanki), Dhiqaddah 1303H.
Do the citations about "no violation of vow for not talking if the person talks to the other person after death" support inability of deceased to hear?

Summarized Answer:
Such a vow is violated only if the person talks during lifetime of the deceased because in this matter the custom (*urf*) is to be relied upon and not the literal meaning or the meaning according to the Sharia. (9:837)

BOOK OF *ZAKAT* (POOR-DUE)

BOOK OF ZAKAT

Chapter on the Obligation of *Zakat* 105
Hijri calendar is to be followed for calculating *zakat* 105
The Lamplight: On various questions about the obligation of *zakat* 106
Chapter of *Zakat* on Pasturing Animals 107
Zakat on cattles 107
Zakat is applicable on Money, Trading Goods and Pasturing Animals 108
Chapter of *Zakat* on Wealth (*Mal*) 109
A Deterrence to the Abuse: On a *hilah* for *zakat* attributed to Abu Yusuf 109
Zakat is payable on asset and not only on its profit 110
Chapter of *Zakat* on Crops and Fruits 111
An Eloquent Statement: On the nature of Indian lands for *ushr* or *kharaj* 111
Ushr payable on crops and fruit 112
Chapter on Persons to Whom *Zakat* can be Paid 113
The Smiling Flower: On prohibition of paying *zakat* to Banu Hashim clan 113
Section on as to who can demand 114
Collecting contributions inside a masjid 114
Chapter on *Sadaqat al-Fitar* 115
Payment for the family members 115
Section on Amount of the Obligation and Its Time 116
The basis of calculating the amount 116
Chapter on Supererogatory (*Nafli*) *Sadaqah* 117
Spending money on religious education of a needy boy 117
Respecting the Fact Finding: Against paying *sadaqah* when *zakat* is unpaid 118

Chapter on the Obligation of *Zakat*

Hijri calendar is to be followed for calculating *zakat*

Question: from Hafiz Muhammad Sadiq (Chahbai), 25 Shaban 1330H.
A man is owner of some real estate and crop fields. He receives income from these sources at different times during a year and expenditures are paid from it. His accounting year starts in the month of October and ends in the month of September. When would *zakat* be due on the amount in excess of the expenditure at the end of the year, and when should it be paid? Reply and be rewarded.

Answer:
Calculation of *zakat* by considering the months of September or October is not allowed. Timings of his income are also irrelevant. The first Arabic month, day, hour and minute on which he becomes owner of wealth up to the minimum scale (*nisab*) till the completion of one year with the assets up to the minimum scale, the same Arabic month, day, hour and minute would be *zakat* year for him.

Irrespective of when his income year starts, the payment of *zakat* would be mandatory on that Arabic month, date, hour and minute. And Allah the Exalted knows better.

The Lamplight:
On various questions about the obligation of *zakat*

Tajalli al-Mishqat li Anar Aslat al-Zakat (1307)

Question 1: from Molvi Ashraf Ali (Gonda, Behraich), 13 Jamdi al-Awla 1307H.
Should *zakat* be paid gradually, and is there an issue in paying *zakat* entirely in a single go?

Summarized Answer:
If he pays *zakat* in advance, that is, when a year (*hawl*) has not passed so that it could discharge the obligation, or when a year has not passed since he became the owner of the asset, or when he has paid *zakat* of previous year and *zakat* for this year has not become due, then he certainly would have the option to pay in parts and gradually and there is no problem in this because payment of *zakat* before it becomes due is not obligatory.

Where a year has passed (in ownership of the asset) and *zakat* has become obligatory, then payment of *zakat* in parts or gradually would not be allowed and it would be obligatory for him to pay the entire due amount at once. It is because according to the correct, authentic and valid-for-fatwa ruling, *zakat* is payable immediately upon becoming due and delay in payment is an act of sin.

Question 7: If due to lack of knowledge of the amount of *zakat* due an excess amount was paid, would the amount paid in excess of *zakat* due every year be adjustable against *zakat* payable?

Summarized Answer:
It would certainly be adjusted because he had the intention of paying *zakat*. Knowledge of the due amount of *zakat* is not a condition for validity of the payment of *zakat*. In the given situation, he at most has delayed the payment of a part of the *zakat* due which is although an act of sin but would not affect the validity of *zakat* paid. Therefore, the amount paid every year towards *zakat* due would be adjusted and the remaining is payable, so much so that it would be excluded from the wealth for calculating the minimum scale. (10:75)

Chapter of *Zakat* on Pasturing Animals

Zakat on cattles

Question: 19 Moharam 1322H.
Is *zakat* payable on the following animals owned for the purpose of agriculture and not for trading and graze most of the year in jungle? Reply and be rewarded. Details: 18 bulls, 21 cows, 13 baby cows of less than two-year age, 3 baby cows of less-than-a-year age, 2 buffalo, 2 buffalo of over-two-year age, 2 baby buffalo of at least one-year age, 6 male buffalo, with total headcount of 67 cattles.

Summarized Answer:
Zakat would be payable, when the following five conditions are met. (1) Camels, cows, buffalo, goats whether male, female or mix of both, are equal or in excess of the minimum scale (which is 5 for camels, 30 for cows and buffalos, and 40 for goats and sheeps). (2) These are not kept for use in sowing, carrying carts or weight, or for eating. (3) These are kept for getting milk, breeding, for increase in their price or for amateur purposes. (4) These are mostly left for pasturing during the year. (5) These have remained as such for one year and by end of the year all those animals of

one kind, that is, all camels, all cows or all goats have the age not less than one year and at least one of these is of full one year.

As per the related rules, in the stated situation, no *zakat* is payable on 18 bulls and 2 buffalo that are for agriculture. No *zakat* is applicable on the babies of age less than a year; however, zakat becomes applicable to these with there are others with one year or more age. Hence, the headcount is 47 on which *zakat* would be one baby having full two-year age, and that baby would be a baby cow because majority of the 47 are cows whether male or female. Additionally, it would be better (*mustahab*) that baby given as *zakat* is female because majority of the 47 are females. (10:242)

Zakat is applicable on Money, Trading Goods and Pasturing Animals

Question: from Sayyid Muhammad Ali (Faridpur), 30 Ramadan 1339H.
On which assets *zakat* is payable?

Answer:
Zakat is payable on gold, silver, trading goods and pasturing animals. (10:139)

Chapter of *Zakat* on Wealth (*Mal*)

A Deterrence to the Abuse: On a *hilah* for *zakat* attributed to Abu Yusuf

Rad al-Tasuf an al-Imam Abi Yusuf (1318)

Question: from Hafiz Abd Allah (Gonda, Awadh), 16 Jamdil Akhir 1318H. In his book *Ghafar al-Mubin*, a *ghayr-i muqallid* Mohi al-Din has written that Imam Qadi Abu Yusuf was used to gift his entire wealth at end of year to his, and got her wealth gifted himself so that the obligation of *zakat* is avoided (*saqit*) [through this *hilah* (legal device)]; and this was reported to Imam Abu Hanifa who stated it to be as per juristic style (*jahat al-fiqh*) of Imam Abu Yusuf and correct accordingly. A Hanafi scholar has also endorsed the above narration of the book and added that this matter has been stated by Imam Bukhari in his book (*Sahih al-Bukhari*) and with displeasure. This matter may please be elaborated with relevant arguments.

Summarized Answer:
Firstly, there is no mention of any such matter in *Sahih al-Bukhari* referring it as an act of Imam Abu Yusuf and endorsement of Imam Abu Hanifa. There is only a narration that indicates such a view of some jurists.

Secondly, texts of Hanafi school of law have reported disagreement between Imam Abu Yusuf and Imam Muhammad over it and have clearly stated that fatwa on this matter is according to the opinion of Imam Muhammad which disallows such an act.

Thirdly, it is stated in *Khazana al-Muftin*:

> A *hilah* (legal device) to avoid right of preemption (*shufah*) after it has become evident is improper because it would be avoiding an obligatory right; however, using a *hilah* to avoid before it becomes evident is permissible, and this is the correct view; and a *hilah* to avoid obligation of *zakat* is improper by consensus of our jurists.

Fourthly, the statement reported in the question has no proof from any authentic source, and such a narration cannot be used to blame a person. The author than proceeds to state fifth, sixth and seventh arguments. (10:187)

Zakat is payable on asset and not only on its profit

Question: 6 Shaban 1321H.
Zayd is of the view that where *zakat* on a trading goods has been paid in one year, *zakat* would not be payable on it but on the profit on that inventory. Reply and be rewarded.

Answer:
Zakat would be payable every year on trading goods until the trading goods solely or with other assets eligible for *zakat* reach up to the minimum scale after adusting the real needs (*hajat-i asliyyah*) of the person, that is debt, *zakat* etc. The view of Zayd is incorrect. And Allah the Exalted knows better. (10:155)

Chapter of *Zakat* on Crops and Fruits

An Eloquent Statement: On the nature of Indian lands for *ushr* or *kharaj*

Afsah al-Bayan fi Hukam Mazra-i Hindustan (1318)

Question: Molvi Abd Allah (Bihar), 12 Rabi al-Akhir 1318H.
(1) That entire land of India in respect of which every landlord (*zamindar*) pay land revenue (*mal guzari*) whether it is *ushr* land or *kharaj* land. If it is *ushr* land, would *ushr* be payable on the remaining yield after paying land revenue or before paying it?
(2) The landlords use their lands through cultivators. In such case, would *ushr* be payable by landlords or cultivators?
(3) In case of *kharaj* land, would the land revenue paid be considered *ushr* or not?
(4) If the reply is 'no,' would *kharaj* be payable on the remaining yield after paying land revenue or before paying it?
(5) What would be the rate?
(6) In case these lands are neither *ushr* lands *nor* kharaj lands, what should we, the landlords, do to free ourselves from the obligation imposed by the Sharia? Reply and be rewarded.

Summarized Answer:
Lands owned by Muslims in India would not be considered *kharaj* lands unless there is supporting evidence from the Sharia. Such lands are *ushr* lands, or these are neither *ushr* lands nor *kharaj* lands. In both cases, these would be subject to *ushr*. The *ushr* would be calculated on the entire yield rather than only on the profit.

Where landlords use their lands through cultivators, *ushr* would be payable by landlords on their share only where they have share, and it would be on the entire yield if they have it cultivated on hire (*ijarah*). Where there is the evidence that land is *kharaj* land, it would be subject to *kharaj* which has not relation to land revenue by the British government. *Kharaj* of such lands in India would be taken to be *kharaj muzif* which is a fixed rate in terms of yield or money. This can be paid by, for example, giving to masjids, madarasas, students and ulema. (10:213)

Ushr payable on crops and fruit

Question: from Ameer Ali Qadiri (District Bareilly), 2 Rajab 1331H.
Cultivator has paid *zakat* from yield of the field equal to 10 percent from that not irrigated by flowing water and 5 percent from that irrigated by flowing water. Would *zakat* equal to 2.5 percent be payable upon passing one year on remaining yield on which 10 percent and 5 percent had been paid?

Answer:
Zakat is not payable on yield from a field; only the said *ushr* is payable. No *zakat* is payable on it upon passing of one year. *Zakat* is payable only on gold and silver, trading goods bought with the intent of trading, and pasturing animals. And Allah the Exalted knows better. (10:203)

Chapter on Persons to Whom *Zakat* can be Paid

The Smiling Flower: On prohibition of paying *zakat* to Banu Hashim clan

Al-Zahar al-Basim fi Hurmat al-Zakat ala Bani Hashim (1307)

Question: from Hafiz Muhammad Ameer Allah, Jamadil Awla 1307H. Is payment of *zakat* and obligatory *sadaqah* to Banu Hashim clan [the descendants of Hashim Ibn Abd Munaf] from the perspective of dissolution (*saqut*) of *khams al-khams* (the fifth of the fifth; a share paid to Banu Hashim during the times of the Prophet) permissible or not? It is stated in *Kifaya*:

> He said that *zakat* is not to be paid to Banu Hashim. It is stated in *Sharh Mani al-Athar* from Imam Abu Hanifa that paying all types of *sadaqah* to Banu Hashim is not disallowed because it was prohibited during the worldly life of the Prophet due to the fifth of the fifth. When payment of the fifth-of- the-fifth has dissolved after the passing away of the Prophet, they (Banu Hashim) may receive *sadaqah*. And it is stated in *al-Nataf* that Imam Abu Hanifa allows spending *sadaqah* on Banu Hashim whereas Imam Abu Yusuf and Imam Muhammad differ with this view. It is in *Sharh Mani al-Athar* that according to the view of Imam Abu Yusuf and

> Imam Muhammad obligatory *sadaqah* and supererogatory *sadaqah* is not to be paid to Banu Hashim, and there are two different views on this from Imam Abu Hanifa. Imam Tahawi has stated that he acts on this permission.
>
> Reply and be rewarded.

Summarized Answer:
It is not permissible to pay *zakat* and obligatory *sadaqah* to the people from Banu Hashim clan nor are the people from Banu Hashim clan allowed to receive these. There are numerous hadiths in support of this opinion. The reason for this ruling is the respect and honor of Banu Hashim clan and *zakat* and obligatory *sadaqah* wash away the sins and are dirt, so these are like water that has washed away impurity which was obligatory. The respect and honor of Banu Hashim clan requires that they may not indulge with this contamination. (10:271)

Section on as to who can demand

Collecting contributions inside a masjid

Question: from Molvi Muhammad Ismail (Mahmudabad), 7 Rabi al-Akhir 1334H.
There is a practice in our areas that, after end of congregational prayer and before the pray, one of those who are present collects donations for poor and passengers after which pray is offered. Afterwards, the collected donation is distributed among passengers and poor. Is such a practice permissible inside masjid?

Answer:
It would be permissible if the person collecting the donation does not take anything from the collected donation. Similar collection of donations for poor inside masjid is proved from Sunnah. And Allah the Exalted knows better. (10:305)

Chapter on *Sadaqat al-Fitar*

Payment for the family members

Question: 7 Rabi al-Akhir 1321H.
If there are 10 persons in a home, some of them are slaves, some children, some have wives and adult children, then would the *sadaqat al-fitar* be payable for seven or eight persons? If *sadaqat al-fitar* is not paid for two men, three slaves and for minor children, would the *sadaqat al-fitar* paid for other persons be correct as per the Sharia, or not? Reply as per the book and be rewarded on the Day of Judgement.

Answer:
The amount paid for minor children would be correct because it was due on their father. The amount paid for wife and adult children would be paid if they had given permission. If they had not given the permission, it would not be considered as paid *sadaqat al-fitar*. It is stated in *Rad* from *Bahr*:

> If a person pays *zakat* on another person's behalf without the permission, and the news reaches to the second person, the *zakat* would not be considered as paid even if the second person gives his consent…. However, if one pays after the permission, it would be permissible.

And Allah the Exalted knows better. (10:293)

Section on Amount of the Obligation and Its Time

The basis of calculating the amount

Question: from Sayyid Muhammad Ali (Bareilly), Ramadan 1329H.
How much is *sadaqah al-fitar* per head?

Answer:
Barley equal to 351 rupees or wheat equal to half of it which calculates to 1.75 *ser* and one *athanni* as per weight standard prevalent in Bareilly city. And Allah the Exalted knows better.

Chapter on Supererogatory (*Nafli*) *Sadaqah*

Spending money on religious education of a needy boy

Question: from Sayyid Shah Hamid Husayn (Marehra), 10 Shaban 1320H.
A man arranges for cooking of food on monthly or annually from his lawful income and offers *fatiha* for the Prophet, and he distributes that food among poor and others. If that money is spent on religious education of a boy with the intention of offering its reward to the Prophet, would this alternate action in place of monthly or annual *fatiha* be an act that would result in happiness of the Prophet, or not, and would the man be rewarded for it?

Answer:
The proposed act would be an alternate to his existing practice, and there is no reduction in the reward (*thawab*) rather there would be hope of over 70 times reward then the reward of the existing practice. In the existing practice of preparing food and distribution of it, there would be 10 times reward; the Allah the Exalted has announced that one who does a good deed would get ten times the reward. As compared to this, there would be at least 700 times the reward for providing aid to a student of religious eduction. The Allah the Exalted has announced that the story of those who spend in the

way of Allah is like a grain bean that grows seven branches everyone of which has 100 beans; and Allah would increase it for whoever Allah likes…. (10:305)

Respecting the Fact Finding: Against paying *sadaqah* when *zakat* is unpaid

Aaiz al-Iktana fi Radd-i Sadaqah Mani al-Zakat (1309)

Question: from Abd al-Razzaq Khan (Pilibhit), Dhiqaddah 1309H.
A person does not pay due *zakat* on his wealth but spends money on beneficial purposes, that is, he distributes agricultural commodities and money among poor daily, he has contructed a masjid with his money, he has bought a village and gifted it for *sadaqah* so that he may spent its rent on welfare during his lifetime. There is another man who claims that wealth on which due *zakat* is unpaid cannot be used for *sadaqah* and all above acts are waste. Accordingly, a fatwa is needed as to whether use of wealth on which due *zakat* has not been paid can be used in acts of *sadaqah*, or not….?

Summarized Answer:
Zakat is a major mandatory act and a pillar of Islam. Obligation of *zakat* is mentioned with prayer (*salat*) 32 times in the Quran and Muslims have been invited towards in various styles. The Quran states, "Allah decreases (the wealth from) *riba* (interest) and increases (the wealth from) *sadaqah*." The author then presents 22 hadiths on benefits of paying *zakat* and harm of not paying *zakat*. He further presents such citations from books of ulema.

The acts of *sadaqah* by the person are valid, however, he would not be entitled to reward over these from Allah until he pays the due *zakat*. (10:171)

BOOK OF FASTING (*SAWM*)

BOOK OF FASTING

Chapter on the Obligation of Fasting 121
Fasting of a minor 121
Person who skips fasting to lead *tarawih* prayer 122
Chapter on Sighting of the Moon 123
A Clear Crescent: On the new ways to announce sighting of the Moon 123
The Methods of Moonsighting: On the permissible ways of Moonsighting 124
The Super Moons: On matters related to sighting of the Moon 124
The Light of the Arguments: A Commentary of *the Super Moons* 124
The Height of Reasoning: Notes on *the Light of the Arguments* 124
Chapter on Acts that Render Fasting Invalid 125
The Communique: On the effect of smelling incense during fasting 125
Belching while fasting 126
Chapter on Delayed Performance (*Qada*) and Expiation (*Kaffarah*) 127
Delayed Performance of Fasts 127
Fasts of Expiation 128
Chapter on Redemption (*Fidyah*) 129
Details of Injunctions: On Redemption of Prayers and Fasts 129
The definition of enfeebled old person 130
Chapter on Factors that Render Fast Improper 131
Using tooth powder while fasting 131
One who hugs or lies down by his wife 132
Chapter on Morning Meal (*Sahr*) and Breaking the Fast (*Iftar*) 133
Correction of a Mistake: On the time when morning starts 133
Path to the Heaven: About the time limit for having morning meal 134
The Perfumes of Bridegroom: On timing of the pray for breaking fast 134
Chapter on Supererogatory (*Nafil*) Fasting 135
Fasts of blessed days other than Ramadan 135
Fast of 27th of Rajab 136
Chapter on Seclusion in a Masjid (*Itikaf*) 137
Number of Days of Seclusion in Ramadan 137

Chapter on the Obligation of Fasting

Fasting of a minor

Question: from Mirza Ghulam Qadir Bayg (Meerut), 12 Ramadan 1307H. Would it be permissible for a minor boy who recites the Quran during supererogatory prayer to break the fast because of weakness and fatigue? Reply and be rewarded.

Summarized Answer:
The Sharia does not apply to a minor. He would not be stated a commiting a sin even if he breaks the fast for no reason. The Prophet has said that three persons are exempt from the Sharia and he has stated among them a minor who has not attained puberty as yet. It is necessary for the guardian to advise a minor who has entered eight year of age to offer prayer and do fasting, and it is obligatory for the guardian to punish a minor who has entered eleventh year of age and skips prayer or fasting.

The guardian may allow a minor of seven or more year of age to skip fasting only where fasting would hurt the minor; and where the guardian gets him skip fasting or remains slient over the minor who is skipping fasting, the guardian would be committing a sin becauses the guardian is required to advise or punish, as the case may be, the minor for fasting. (10:344)

Person who skips fasting to lead *tarawih* prayer

Question:
Is it permissible for a person who has memorized the Quran to be exempted from fasting for leading *tarawih* prayer during Ramadan? Reply and be rewarded.

Summarized Answer:
The completion of recitation of the Quran during *tarawih* prayer is not more than a sunnah. The difference between mandatory (*fard*) and sunnah is quite apparent and clear. It would be a stupidity to leave a mandatory act (fasting during Ramadan) for a sunnah (*tarawih* prayer). (10:331)

Chapter on Sighting of the Moon

A Clear Crescent: On the new ways to announce sighting of the Moon

Azka al-Ahlal bi Abtal ma Ahdath al-Nas fi Amar al-Hilal (1305)

Summarized Question:
Is the news of Moonsighting through telegram reliable as per the Sharia?

Summarized Answer:
In the matters requiring evidence as per Sharia, the news from telegram is not reliable. Usage of it for informing about sighting of the Moon is void. Muslims are prohibited from acting on any such announcement and those who use it for announing the sighting of the Moon do a sin. This involves numerous breaches of the rules of the Sharia.

(1) The Sharia has various conditions for informing about sigting of the Moon in another city, and such conditions are not present where telegram is used. (2) A telegram is even more unreliable than a letter. The writer of letter may be known, the writing style can be identified and the one who knows may get support from other ways. Despite these, our jurists have declared letter as unreliable in the matters of the Sharia requiring evidence. (3) A telegram is a copy of the message. (4) Our jurists have stated that on

a qadi (judge) can send a letter informe of sighting of the Moon to another city. (5) Even the letter of a qadi would be reliable when it is accompanied by two male witnesses or one male and two female witnesses. (10:359)

The Methods of Moonsighting: On the permissible ways of Moonsighting

Taraq Athbat al-Hilal (1320)

Question: from Sayyid Moin al-Din Hasan (Gujrat), 25 Moharram 1320H. How is the sighting of the Moon proved according to the Sharia?

Summarized Answer:
There are seven methods of sighting of the Moon according to the Sharia. (1) One who sights the Moon himself and becomes a witness. (2) One who is witness of the witness who informed about the sighting of the Moon. (3) Witness through a qadi. (4) Letter from a qadi to another qadi. (5) Groups of reliable people come from another city where there is a qadi who has announced sighting of the Moon and inform about the beginning of the month of Ramadan or the day of Eid. (6) Completion of 30 days of an Islamic month.] (10:405)

The Super Moons: On matters related to sighting of the Moon

Al-Badur al-Ajila fi Amur al-Ahila (1304)

The Light of the Arguments: A Commentary of *the Super Moons*

Nur al-Adila lil Badur al-Ajila

The Height of Reasoning: Notes on *the Light of the Arguments*

Rafa al-Ila an Nur al-Adila

[**Selection: The act of searching for the Moon of the month of Ramadan after sunset on 29th Shaban is *fard-i kifaya***, which is an act that if performed by some sufficiently[1] would relieve all present from the obligation and if not performed by anyone would render all present sinful.]

[1] The author has added the word 'sufficiently' to indicate that they must be acceptable witnesses according to the Sharia.] (10:449)

Chapter on Acts that Render Fasting Invalid

The Communique: On the effect of smelling incense during fasting

Al-Alam Bihal al-Bakhur fi al-Siyam (1315)

Question:
Inside the shrine of a pious man, people arrive every evening after 4 p.m for reciting *fatiha* in groups of 12 each. During these hours, incense is burning there. None of those present has the intention to smell the perfume or smoke. Would this unintended inhalation of perfume or smoke by those fasting at that time render their fasting invalid (*fasid*)? During the recent month of Ramadan, a person claimed that the smell of the smoke would invalidate the fasting of those who were present? Reply and be rewarded.

Summarized Answer:
The texts, commentaries and collections of fatwas of our school of law unconditionally state that smoke and dust that enters throat or brain without intentional inhaling would not invalidate fasting, even if the person recalls that he is fasting at that time. However, where a person with fasting

intentionally inhales smoke or dust of anything while he recalls that he is fasting, this act would render his fasting invalid. For example, he burns incense and keeps it close to his body for inhaling its smoke such that it enters his throat or brain. (10:489)

Belching while fasting

Summarized Question: from EBSR (Calcutta), 1 Rabi al-Awwal 1332H. What are the conditions that invalidate fasting? If a person has had excessive meals and has bad belching in the morning, would his fasting be affected?

Summarized Answer:
Bad belching does not affect fasting. Fast is broken by three acts: sexual intercourse, touch when it results in seminal discharge and entering a thing in the body that cannot be pulled back. (10:486)

Chapter on Delayed Performance (*Qada*) and Expiation (*Kaffarah*)

Delayed Performance of Fasts

Question: from Abd al-Jalil Khan (Nainital), 13 Safar 1334H.
Zayd had the morning meal (*sahr*) from 4:30 a.m. to 5 a.m. and noted whiteness in the sky on the Eastern side and the call for morning prayer was also made by that time. He had fast since it was the third day of Ramadan. Some people advised during the day that he was not fasting because of the stated situation, so Zayd broke the fast at 1 p.m. Would he have obligation of delayed performance equal to one fast or 60 fasts?

Answer:
In this Ramadan, the time for morning meal was well before 5 a.m. and since he had the morning meal up to 5 a.m., he did not have the fast, therefore, it was not broken. Accordingly, delayed performance is required rather than the expiation. It is for the month of Ramadan, if one does not have fast for any reason, it would be obligatory for him/her to spend the day like one who has fast and eating and driking would be prohibited, unless there is a Sharia-recongnized reason. Therefore, if he eats at 1 p.m., he would be committing another sin. He must repent. And Allah knows better.

Delayed performance of one fast is one fast, and 60 fasts are the expiation which is required when one had proceeded with intention of fasting and breaks the fast, without any valid reason, through intentional eating, having medicine or providing nourishment and nothing happens till the evening that could have exempted him/her from fasting. For such a violation, he would be required ensure fasting for 60 days in a row. And Allah the Exalted knows better. (10:519)

Fasts of Expiation

Question:
What is the injuction for the two person who coerce a man to break the fast? What should the one who breaks the fast under coercion do?

Answer:
Without any Sharia-recognized need or problem, one who forces anyone to break the fast is liable to the fire of the Hell. One who breaks the fast under coercion or pressure is punishable. If that fast was among the fasts of the month of Ramadan, he would be required to have 60 fasts of expiation in a row, according to the related conditions. And Allah the Exalted knows better. (10:519)

Chapter on Redemption (*Fidyah*)

Details of Injunctions: On Redemption of Prayers and Fasts

Tafasir al-Ihkam li Fidyah al-Salat wa al-Siyam (1316)

Summarized Question: Qazi Muhammad Abd al-Wahid Firdosi (Patna), 10 Safar 1310.
What is the redemption of fasts of dead in equivalent weight prevalent in India, as it is stated in legal texts as half *saa* of wheat?

Summarized Answer:
Weighing measures vary in countries; hence, we state the reply in terms of weight and in British Indian Rupees so that people of different areas may calculate equivalent weight measure. Redemption for one fast or one daily prayer and per head meal for poor or per-head *sadaqat al-fitar* as expiation are all half *saa* of wheat or one *saa* of barley.

One *saa* equals 270 *tola*. Half *saa* equals 135 *tola*. One *tola* equals 12 *masha*. One *masha* equals 8 *ratti*. One *ratti* equals 8 *chawal*. One prevailing British Indian Rupee equals 11.25 *masha*. One *saa* equals four *mud*. One *mud* equals 40 *astar*. One *astar* equals 4.5 *mithqal*. Therefore, one *mud* would equal

180 *mithqal*, and one *mithqal* equals 4.5 *masha*. Hence, one dirham has per Sharia would be equal to 0.7 *mithqal* or 25.2 *ratti* or 3 *masha* and 1.2 *surkh*.

With this calculation, 200 dirhams would equal 52.5 *tola* and 20 *mithqal* of silver or 7.5 *tola* of gold. Hence, one-fourth of a *saa* would be equal to 810 *masha* or 67.5 *tola*, and half *saa* would be equal to 135 *tola*.

In terms of the prevalent British Indian Rupee, it would be 140 rupees where one *ser* equals 100 rupees, that is, 93 *tola* and 9 *masha*, as in Bareilly city. In that case, half *saa* would equal to a litter less than 1.5 *ser*, that is, 1 *ser* and 7 *chitank* and 2 *masha* and 6 *ratti*. And one *saa* would equal to 0.5 *pao* short of 3 *ser* and 5 *masha* and 5 *ratti*.

In terms of the British Indian *Ser*, which is equal to 80 rupees or complete 75 *tola*, and this is prevalent in Delhi and Lucknow, it would be 3.5 *ser* and 1.5 *chitank* and 0.1 *chitank*. In terms of the *Ser* of the State of Rampur, which is equal to 96 rupees or complete 90 *tola*, it would be 3 *ser* for one *saa*.

And these measures can be used to calculate measures prevalent in other regions. (10:523)

The definition of enfeebled old person

Question: from Hafiz Muhammad Ishaq (Gonda), 23 Dhiqaddah 1331H. What is the definition of enfeebled old person (*shaykh-i fani*)? Is there a specified age for such an old person, or not? What are the rulings for such an old person as regards prayers, fasts, ablution and bathing? Reply and be rewarded.

Answer:
The age of such a person is specified in legal books is 80 or 90 years, however, in reality, the injunctions related to such an old person are based on the fact that if his age is 100 years and he can fast, he would not be enfeebled old person. Where his age is 70 years and he has become so weak because of aging that he does not have enough strength to fast, he would be enfeebled old person.

Accordingly, an enfeebled old person is one who has become so much weak because of aging. Where the reason for the weakness is aging, it would not end. For such enfeebled old person, the injuction is redemption for fasts. For prayer and purification (ablution and bathing), the injuction for enfeebled old person and young is same. Whoever is unable to comply to an extent in a given situation would be allowed relaxation to that extent and timeline of the inability or need. Allah the Exalted says, "Allah orders compliance by a person as per the capacity of that person." And Allah the Exalted knows better. (10:548)

Chapter on Factors that Render Fast Improper

Using tooth powder while fasting

Question: from Sayyid Ibrahim (Bilgram), 18 Dhiqaddah 1311H.
What is the injuction of Sharia as regards usage of tooth powder made of almond, coal, supari and ash by one who is fasting? What is the ruling as regard usage of *siwak* (wooden toothbrush)? Reply and be rewarded.

Answer:
Usage of *siwak* is permissible unconditionally. Usage of tooth power is not disallowed or prohibited when one is satisfied that none of its particle would enter the throat. However, using it without any valid need is improper. It is written in *Dur*, "Tasting anything during fast is improper." And Allah the Exalted knows better. (10:551)

One who hugs or lies down by his wife

Question: from Rahim Allah Kan (Aligarh), 25 Ramadan 1315H.
Is is improper (*makruh*) while one is fasting to hug or lie down besides his wife which results in arousal and release of precum (*madhi*), or not?

Answer:
The stated acts would not break the fast until there is a seminal discharge. Mere act of lie down besides the wife without touch or kiss is not even improper. Hugging, kissing or touching her body, if these involve fear of invalidating the fast due to exceeding arousal that may result in loosing the patience and enging in intercourse or may result in seminal discharge without intercourse, then such action would be improper and disallowed. When there is not such fear, there would be no harm in these. However, hugging with naked bodies such that private parts touch one another is improper unconditionally…. (10:551)

Chapter on Morning Meal (*Sahr*) and Breaking the Fast (*Iftar*)

Correction of a Mistake: On the time when morning starts

Dar-i Qubah an Darak Waqt-i al-Subah (1326)

Question: from Muhammad Ihsan al-Haq (Meerut), 14 Ramadan 1326H. Is there a principle in Sharia that can be used to know the start of morning (*subh sadiq*) without the need of physical observation, or there is not any such principle and observation is the only method? If there is not such principle, what is the interpretation of the statement the seventh part of night is *fajar* (time for morning prayer) as given in the book *Khazanat al-Riwayat*? Reply and be rewarded.

Summarized Answer:
The Sharia has stated timings for prayer, fast, *Hajj* etc and those timings are based on observation. None of these involve mere calculations or principle, however, observation or sighting is sufficient method to know these timings. (10:617)

Path to the Heaven: About the time limit for having morning meal

Hidayat al-Jinan ba Ahkam-i Ramadan (1323)

Summarized Question: from Fasahat Allah Khan (Shahjahanpur), 7 Ramadan 1323H.
The question presents a table of Ramadan dates wherein timings of morning meal, breaking fast and other matters ar printed.

Summarized Answer:
The author describes that the science of *tawqiyat* (timings) is a combination of previous books, calculations and observations. The author then presents analysis and mistakes of the present table. (10:567)

The Perfumes of Bridegroom: On timing of the pray for breaking fast

Al-Urus al-Matar fi Ziman-i Dawat al-Iftar (1312)

Summarized Question: from Molvi Abd al-Majid Faridi (Banaras), 15 Ramadan 1312H.
When should the following pray of breaking fast should be offered?

اللَهُمَّ لك صُمْتُ وعلى رِزْقِكَ أفْطَرْتُ

Summarized Answer:
The stated pray is to be offered after one has broken the fast. The author then presents various hadiths in support of his fatwa. Moreover, he draws attention towards past tense of the reported pray. (10:631)

Chapter on Supererogatory (*Nafli*) Fasting

Fasts of blessed days other than Ramadan

Question: 12 Shaban 1321H.
Is fast of the 27th of Rajab better than fasts of other days excluding the days of Ramadan? If yes, what is the reason for it? What are the other days about which the Prophet has advised us for fasting? What is the reward for the fast of 27th of Rajab? What is the reward for fast of other days? One who stops others from fasting on such days and also denies fasting on such days is commiting a sin or not? Reply and be rewarded.

Summarized Answer:
For fasting and other good deeds, other than Ramadan, the better days are the first 10 days of Dhilhajjah. The Prophet has announced:

> Good deeds of no other days, other than the 10 days (of Dhilhajjah), are liked more by Allah the Exalted. The Companions asked as to whether jihad was better. The Prophet replied that even not jihad except where one leaves his home with his life and entire wealth for jihad and brings back none of it. This hadith has been reported by Bukhari, Tirmidhi, Abu Dawud, Ibn Majah and Tibrani in *al-Muajam al-Kabir* with good certificate

and Bayhiqi; all of them have reported it from Hadrat Abd Allah Ibn Abbas. Tibrani has reported it from Hadrat Ibn Masud. Bazzar has reported it in his *Musnad* with good certificate and Abu Yala with correct certificate and Ibn Ahban reported it in his *Sahih* from Hadrat Jabir Ibn Abd Allah.

Specially the 9th day of Dhilhajjah which better than other days of a year. After this, the fast of the 10th day of Moharam (*Ashura*) is better. After that, fast of everyday of the month of Moharam is better.

Therefore, it is not correct to state the fast of 27th day of Rajab as better than all days other than that of Ramadan. (10:649)

Fast of 27th of Rajab

Question: from Abd al-Sattar (Banaras), 15 Shawal 1317H.
Should we fast on 27th of the Islamic month of Rajab, or not? Reply and be rewarded.

Summarized Answer:
It is stated in *Juz Abi Maaz Marozi* as reported from Hadrat Abu Hurayra (Allah be pleased with him), "One who fasts on the day of 27th of Rajab, Allah would reward him equal to the reward of fasts of 60 months; and it is the day when the angel Gibriel brought the message of Allah for the Prophet." For this, it is stated in *Mathabt bi al-Sunnah* from *Tanziha al-Shariyyah*, "This hadith is better than all others on this subject." Therefore, the said practice has basis and hadith with weak chain of narrators is acceptable in favor of good deeds. And Allah the Exalted knows better. (10:647)

Chapter on Seclusion in a Masjid (*Itikaf*)

Number of Days of Seclusion in Ramadan

Question: from Sayyid Ibrahim Qadiri (Bilgram), 23 Ramadan 1312H.
Is the seclusion in a masjid during Ramadan for last 10 days of the month or also permissibe for three or four days? One person is of the view that the objective of legislation of the seclusion is to identify the night of al-Qadr and this would be achieved in the seclusion for the 10 days, whereas another person is of the view that it is permissible for three or four days too.

Answer:
The seclusion for the last 10 days of Ramadan is a sunnah. Even if one day is short, it would not be the seclusion as per the sunnah.

There is, however, no limit for supererogatory seclusion and that can be of even a while even when one is not fasting. Hence, it is advised to have the intention of seclusion when one enters masjid because it would bring reward of this worship without effort. It is stated in *Dur*, "Seclusion during last 10 days of Ramadan is *sunnah muakkadah*, and it is communal obligation (*sunnah al-kifaya*) for the residents of each town, as stated in *Burhan* and other texts." It is also stated in *Dur*:

> As per the view of Imam Muhammad, supererogatory seclusion can be for a while during a day and night, and this is also the view of Imam Abu Hanifa as given in *Zahir al-Riwayah* because the base of supererogatory is on ease and fatwa is also according to this view. 'A while' here means a part of the time and does not mean an hour from 24 hours as said by Astrologers, as stated in *Ghurar al-Adhkar* and other books.

It is stated in *Fath al-Qadir*:

> Seclusion can be obligatory, *sunnah muakkadah* or recommended. Obligatory is one which has been subject of a *nadhar* whether immediate or upon meeting a condition. *Sunnah muakkadah* is that of last 10 days of Ramadan. Recommended is one which is other than these two situations.

It is stated in *Rad*, "Seclusion as per the sunnah is that of all last 10 days of Ramadan." And Allah the Exalted knows better. (10:654)

BOOK OF *HAJJ* (PILGRIMAGE)

BOOK OF HAJJ

Chapter on Obligation of Pilgrimage 141
Hajj of a woman 141
Permission of parents for *Hajj* 142
Chapter on *Ihram* 143
Ihram of a person who has medical condition 143
Protection from cold in *Ihram* 144
Chapter on Conditions of *Hajj* 145
The Lights of Good News: On matters related to *Hajj* and *Ziyarah* 145
The Shining Brightness: A Commentary on a book on *Hajj and Ziyarah* 146
The Crest of the Admirable: On the Margin of *The Shining Brightness* 146
Chapter on Offences 147
Offence of a man covering head while in *ihram* 147
Woman wearing visor while in *ihram* 148
Chapter on *Hajj* on Behalf of Another 149
Conditions of *Hajj* on behalf of another 149
One who sent another to perform *Hajj* on his or her behalf 150
Chapter on the Offering (*Hady*) 151
Share in the offering that is a camel 151
One who gives charity in lieu of the offering 152
Chapter on Scattered Issues 153
A Clarification of the Doubt: On migration to Makkah and Medina 153

Chapter on Obligation of Pilgrimage

Hajj of a woman

Question: from Wahid Yar Khan (Bareilly), 4 Dhiqaddah 1324H.
Is it permissible for a woman to travel for *Hajj*, or not?

Answer:
The obligation of *Hajj* is same for men and women who can afford it, and he or she would face the Hell fire if he or she does not perform it despite affordability. A woman has to travel for *Hajj* with her husband or a *mahram* male, and this requirement is not specific to *Hajj* as she is required this whenever she travels to anywhere for one day or more.

Where a woman has already performed mandatory *Hajj*, it would good for her not to repeat as her stay at her home is better. This is stated in a hadith that the Prophet told his wives after they had performed *Hajj* to stay at home. But this does not mean that women are not allowed to perform *Hajj* again. Hadrat Aisha (Allah be pleased with her) performed another *Hajj* after the said hadith of the Prophet. And Allah the Exalted knows better. (10:657)

Permission of parents for *Hajj*

Question: from Molvi Muhammad Ishaq (Itah), 8 Ramadan.
Zayd has capacity to afford expenses of *Hajj* travel. If his parents do not give permission for *Hajj*, can he go for the *Hajj* for the first time? Parents have to pay their loans and the agricultural assets are of more value than that. Zayd does not have any wife or children.

Answer:
If Zayd can affort on his own, *Hajj* is mandatory (*fard*) for him. Mandatory *Hajj* does not require permission from parents, and they do not have option to refuse the permission. Zayd is required to go for *Hajj* even if his parents prohibit. Loan on his parents does not affect the obligation of *Hajj* over Zayd. And Allah the Exalted knows better. (10:657)

Chapter on *Ihram*

Ihram of a person who has medical condition

Question: from Muhammad Umar (Patna), 13 Ramadan 1321H.
A man is travelling to Makkah (for *Hajj*) and he has a desease. The desease involves release of red drops after urination for over an hour, and he has to wear an underwear. He wears dress after the drops stop, after performing ablution. Therefore, he cannot avoid wearing underwear. How would he wear *ihram* given that the bottom part of *ihram* would become impure daily? He is also unable to bath because of aging and deseases. Should he perform *tayammum* in lieu of bathing?

Summarized Answer:
It would permissible to wear underwear in *ihram* if it is not stiched, and in the given situation even stiched underwear would be permissible because of the severe need.

He would perform *tayammum* if he has sexual intercourse. The bath which is sunnah before wearing *ihram* is not to be replaced with *tayammum* because that bath is not for having purity; hence, ablution would be sufficient. (10:663)

Protection from cold in *Ihram*

Question: from Muhammad Umar (Patna), 13 Ramadan 1321H.
Can a person wear blanket over *ihram* during winter? If not, what should he do to protect from cold? Reply and be rewarded.

Summarized Answer:
Covering body, except face, with blanket or wollen sheet or unstiched cloth or usage as flooring is not disallowed, and he can put these on his shoulder too so far as he does not use its sleeves or tighthen it in any manner. (10:663)

Chapter on Conditions of *Hajj*

The Lights of Good News:
On matters related to *Hajj* and *Ziyarah*

Anwar al-Basharat fi Masayl al-Haj wa al-Ziyarat (1329)

Summarized Question: from Sayyid Muhammad Ahsan (Bareilly), 3 Shawal 1329H.
Please write the method and manners of performing *Hajj*.

Summarized Answer:
The author has arranged the booklet in seven sections.

First section is about 48 manners of *Hajj* and things to do before *Hajj*. These relate to discharging over due rights of Allah and people, intention, people and things to keep for the *Hajj* travel. The prays of this stage are also mentioned in this section.

Second section is about *ihram* and the *mawaqit*. These are related to limits of *mawaqit*, manner of wearing *ihram*, and prohibited acts, improper acts and permissible acts while one is in condition of *ihram*.

Third section is about *tawaf* and *sai* (of mounts Safa and Marwa). The author first presents a map of Masjid al-Haram at Makkah and describes the important places for knowledge of a pilgrim. He then describes the manner

of *tawaf* and *sai* and states prohibited, improper and permissible acts of these. Again, the prays to be offered at various times and places are stated by the author.

Fourth section is about the departure to Mina and the stay at Arafat.

Fifth section is about stay at Mina and Mudhalifah and other activities of *Hajj* including the offering (*Hady*).

Sixth section is about offences and expiation (*kaffarah*).

Seventh section is about manners of attending the court of the Prophet at Medina. (10:725)

The Shining Brightness: A Commentary on a book on *Hajj and Ziyarah*

Al-Nayar al-Wadiyah sharh al-Jawhar al-Madiyah (1295) a commentary on the booklet of Shaykh Sayyid Husayn Ibn Saleh

The Crest of the Admirable: On the Margin of *The Shining Brightness*

Al-Turat al-Radiyah ala al-Nayar al-Wadiyah

Summary:

The booklet consists of a preface, six sections and a conclusion.

The preface is about the obligation of *Hajj*. It informs about five conditions that when found a person would make it mandatory for the person to perform *Hajj*: Being (1) adult[1], (2) Muslim, (3) sane, (4) free, and (5) capacity to afford the related expenses.

First section is about conditions and manners for *ihram* and related mandatory and sunnah acts.

Second section is about acts that are prohibited while one is in the situation of *ihram*.

Third section is about pillars of *Hajj* and *Umrah*.

Fourth section is about obligatory acts for a person performing *Hajj*.

Fifth section is about selected sunnah acts for a person performing *Hajj*.

Sixth section is about visit to the court of the Prophet at Medina.

The booklet ends with conclusion on method of performing *Hajj* and *Umrah*, and attendance in the court of the Prophet. (10:771)

[1] Worship is meaningful when one is in a position to understand it, and worship of a minor is not correct whether mandatory or supererogatory.

Chapter on Offences

Offence of a man covering head while in *ihram*

Question: from Mulla Yaqub Ali Khan (Ujayn), 4 Rajab 1311H.
A man who covers his head with a sheet for some time while in the situation of *ihram* is required to give a mound of wheat. If he did not give it in Makkah, can he give it upon coming back to his home (in India)? If it was his recommended (*mustahab*) *Hajj*, would the validity of his *Hajj* be affected? What should one do if he has excuse (*udhar*) to cover the head?

Summarized Answer:
If a man covers entire or at least one-fourth of his head in a manner that is cutomarliy called 'covering' like wearing a cap, *imamah*, *chadar* over head, sheet to avoid sunlight, tightening head with a cloth in headache, dressing a wound (rather than putting a box or tray over head because these do not customarily mean covering head), then he would be liable for expiation even if he does so unintentionally, in sleep or while he is unconscious. This, however, does not affect the validity of *Hajj*, and it is a wrong so it is compensated through expiation, like unintentionally skipping a mandatory act in prayer makes prostrations of error mandatory.

Presence or absence of excuse (*udhar*) would only affect the extent of expiation. If he has no excuse for it and covers his head for an entire day or an entire night or more, he would be liable for atonement by slaughter (*dam*)

within the limits of the harem anytime, and there is no other way of expiation. If has an excuse for it, like fever, cold, wound or pain, and covers it for that period only, then he is given an option. If he likes, he may choose atonement by slaughter anywhere anytime, or *sadaqah* (charity) of three *sa* of wheat or six *sa* of barley to six needy persons, or he may fast for three days.

If he covers his head for a period of less than a day or a night, then if he has no excuse for it, he would be liable for *sadaqah* that is half *sa* of wheat or one *sa* of barley. If he has an excuse for it, he would be liable for *sadaqah* or he may fast for one day. (10:713)

Woman wearing visor while in *ihram*

Question: from Pir Sayyid Hamid Husayn (Mumbai), 4 Dhiqaddah 1329H. Our women wear visor made of palm leaves. It touches her temple (*kanpati*), nose and mouth, and the face also get covered. What should they do while in the situation in *ihram*. While offering prayer in a public place, the visor cannot be fixed to remain up. Other than this, they cannot hide themselves from the sight of stranger man (*na-mehram*). Your guidance is needed in this matter.

Answer:
The visor must be fixed tightly so that it remains up, and it must be large so that the face remains veiled. If it does come down on face or touches temple, nose or mouth, and if it does not cover one-fourth or more of the face, there would be no expiation, neither dam nor *sadaqah*, because neither one-fourth or more of face was covered nor it remained cover for a day or a night…. If one-fourth or more of face is covered, they would be liable for *sadaqah*. (10:715)

Chapter on *Hajj* on Behalf of Another

Conditions of *Hajj* on behalf of another

Question: from Molvi Sultan Ahmad Khan (Bareilly), 22 Dhiqaddah 1322H. What are the conditions of *Hajj* on behalf of another person? Reply and be rewarded.

Summarized Answer:
The conditions of performing a mandatory *Hajj* on behalf of another such that it discharges the obligation of the mandatory *Hajj* from that another person are as follows.

(1) *Hajj* has become mandatory for the person on whose behalf it is being performed. If a poor sends someone to perform *Hajj* on his behalf and later the poor becomes rich, it would become mandatory for him to perform *Hajj*.

(2) One who sends another to perform *Hajj* on his behalf must have excuse until the person who is sent reaches Arafat. If he does not have excuse, sends another on his behalf and then an excuse arises to him, the *Hajj* would become mandatory for him afresh.

(3) If the excuse he is facing is removable, it would be a condition that it remains intact for his entire remaining life.

(4) The intention of person performing *Hajj* on behalf of another is to perform *Hajj* only on behalf of the person who is sending him.

(5) The person on whose behalf another is performing *Hajj* has given permission to do so.

(6) The expenses are borne by the person on whose behalf another is performing the *Hajj*.

(7) The *Hajj* is performed by one who was asked to perform the *Hajj*.

(8) The person performing *Hajj* on behalf of other travels most of the part on a transport.

(9) *Hajj* on behalf of a person living outside the limits of *mawaqit* is to be offered in a manner it is performed by such a person.

(10) He performs the *Hajj* as instructed by the person on whose behalf *Hajj* is being performed.

(11) The *Hajj* is performed validly in the given year. (10:659)

One who sent another to perform *Hajj* on his or her behalf

Question: from Pir Sayyid Hamid Hasan (Marehra), 16 Shawal 1331H.
A 55-year old widow has sent different men twice to perform *Hajj* on her behalf. Some people have told her that those *Hajj* were not valid and she should go for *Hajj* herself. She is old and ill. In this situation, were those *Hajj* performed on her behalf by others were valid? Or should she go for *Hajj* herself? Reply and be rewarded.

Summarized Answer:
Where a person having execuse sends another to perform *Hajj* on his or her behalf, the condition of validity of such a *Hajj* is that the person sending has that excuse for all of his or her remaining life. (10:661)

Chapter on the Offering (*Hady*)

Share in the offering that is a camel

Question: from Satna Bibi (Bareilly)
Eight persons shared an offering (*qurbani*) which is a camel. Would their *Hajj* be valid? Should the offering be done again? Reply and be rewarded.

Answer:
The *Hajj* is valid.

If the intention at the time of getting into *ihram* was only for *Hajj*, the offering was neither even required nor anything else is required in lieu of that offering.

If the intention at the time of getting into *ihram* was to both for performing *Umrah*, and *Hajj*, or the intention was for *Umrah* and after performing *Umrah* he had gotten into *ihram* with the intention to perform *Hajj*, the offering would be obligatory (*wajib*).

More than seven persons cannot share in the offering of a camel so that offering was not valid.

In such a situation, however, two offerings are required: one the required and the other as expiation. The cost of the two offerings are required to be sent to Makkah so that the offerings may be done there. And Allah the Exalted knows better. (10:669)

One who gives charity in lieu of the offering

Question:
A person performing *Hajj* gives equivalent amount of charity in lieu of the offering. Would this discharge his obligation of the offering?

Answer:
No, because slaughter is the requirement in such case. (10:670)

Chapter on Scattered Issues

A Clarification of the Doubt: On migration to Makkah and Medina

Siqal al-Rayn an Ahkam-i Majawarat al-Harmayn (1305)

Question: from Molvi Abd Allah (Gorakhpur), 22 Jamdi al-Awwal 1305H. A man's parents are alive and he has two daughters. None of them are economically dependant on him. He can affort travelling expenses and has transport. He wishes to migrate alone to the two holy sanctuaries (*Harmayn Sharifayn* i.e. the cities of Makkah and Medina) because he cannot afford to relocate with all of them. He also thinks that if he seeks their permission, they would not allow him to relocate. In this situation, is it permissible by the Sharia for him to relocate? Kindly reply in the light of the Quran and Sunnah. May you be rewarded on the Day of Judgement.

Summarized Answer:
Good behavior with parents is among the obligatory acts. The Almighty has asked in the Quran for being thankful to the Almighty and parents. The Prophet stated good behavior with parents as an act better than Jihad (fighting for the happiness of Allah). A man came to the court of the Prophet and said that he had migrated towards the Prophet and had left his

parents crying; the Prophet asked him to go back to serve his parents and get them happy.

Another man migrated from Yemen toward the Prophet (for Jihad). The Prophet asked him if he had any relatives in Yemen. The man informed that his parents were in Yemen. The Prophet asked him if the parents had given permission for the migration. The man replied that his parents did not give permission. The Prophet asked him to go back to his parents (in Yemen) and seek their permission and the man could join Jihad if they give permission otherwise he should serve his parents.

When you have read all this and know that if the parents of the man stated in the question would not give permission if he seeks their permission, it is clear that his parents would be sad upon his leaving them, that is why they are not giving the permission. In such situation, he is not allowed to leave them crying.

Imam Malik Ibn Anas was asked if one should migrate to (the two holy cities) or return to his hometown (after performing *Hajj*). He replied that it was sunnah to return to hometown after performing *Hajj*. (10:677)

BOOK OF MARRIAGE (*NIKAH*)

BOOK OF MARRIAGE

Chapter on the Contract of Marriage 157
Conditions of a marriage contract 157
A Ray of Divine Light: Against validity of marriage by acknowledging 158
Chapter on the Prohibited Categories of Women 159
Women who are part of prohibited categories 159
A Gift for Women: On prohibition arising from adultery 160
Chapter on Guardians (*Awliya*) 161
Men who are guardians 161
A Suggestion for Rebuttal: On need to ratify marriage by the closer guardian 162
Chapter on Equality of Status (*Kafaah*) in Marriage 163
Marriage by a woman with her *kafaah* 163
A Remedy for Insult: Against marriage with the Wahhabis 164
Chapter on Agency (*Wakalah*) in *Nikah* and Other Matters 165
Marriage contract through an agent 165
A Remover of Bad: On a practice of permission for marriage 166
Chapter on Dower (*Mahr*) 167
Types of dower 167
A Detailed Note: On delay of access by wife until payment of dower 168
Chapter on Dowry (*Jahaz*) 169
Ownership of dowry 169
Ownerhip of assets given by in-laws of woman 170
Chapter on Marriages of non-Muslims 171
Marrying a Chiristian or Zoroastrian (*majus*) woman 171
Marrying a woman who has converted from Hinduism 172
Chapter on Relations with Spouse (*Muashrah*) 173
Travelling by husband while his wife stays at home 173
Touching or looking at private parts of spouse 174
Chapter on Distributive Justice in Marriage (*Qasm*) 175
Rights of wives 175
Money sent to her at the time of engagement 176
Chapter on Another Marriage 177
Permission of first wife for another marriage 177
A Comprehensive Instruction: On marriage of a widow 178
Chapter on Fosterage (*Rada*) 179
A Good Expression: Against marriage with children of foster-brother 179
Against marriage with daughter of foster-brother 180

Chapter on the Contract of Marriage

Conditions of a marriage contract

Question: from Nizam al-Din (Pilibhit), 29 Ramadan 1311H.
Is marriage contract complete upon consent or not? Is the presence of qadi required or not? Reply and be rewarded.

Answer:
Only offer and acceptance of the man and the woman are required in presence of two men or a man and two women in the same session who listen to the offer and the acceptance and understand that a marriage contract is being entered. This would be sufficient for the validity of the contract. Beyond this, presence of qadi and other things is not required. It is stated in *Dur*:

> In presence of two men or a man and two women who are sane, adult and free and who listen to the offer and the acceptance between the groom and the bride in the same session, the marriage contract would complete if the witnesses understand that the marriage contract is being entered into, according to our (Hanafi) school.

And Allah the Exalted knows better. (11:180)

A Ray of Divine Light: Against validity of marriage by acknowledging

Ubab al-Anwar an la Nikah ba Mujrid al-Iqrar (1307)

Summarized Question: from Molvi Fadal al-Rahman (Ferozpur), 4 Jamdil Awwal 1307H
Zayd says that Hinda is his wife. Hinda says Zayd is her husband. Would this acknowledgement be same as marriage (*nikah*) contract?

Summarized Answer:
In judicial (*qada*) matters, acknowledgment of marriage by a man and a woman is a sufficient proof of their marriage. In fact, even a lesser situation can become the proof of their marriage: where one sees a man and woman living together and dealing with each other like a husband and wife do, that person can testify that they are husband and wife, even if that person was not present in their marriage ceremony.

However, the reality (*diyanat*) can be different. If the man and woman are true in their expressions (*izhar*) and the intimation (*khabar*) which means marriage has taken place between them, they would be husband and wife, according to the injunction given by Allah the Exalted. Otherwise, mere utterance of the words stated in the question would not result in a contract of marriage between them. They would remain strangers, and the things and acts that become permissible with marriage would not be permissible for them in reality. (11:121)

Chapter on the Prohibited Categories of Women

Women who are part of prohibited categories

Question: from Hafiz Ala al-Din (Balrampur)
Which women are included in the prohibited categories for marriage? Is it permissible for a man to marry a woman who was previously wife of his brother? The brother of that man has died.

Answer:
There are several categories of women with whom mariage is prohibited.

(1) By lineage, like his mother, daughter, sister, maternal aunt, paternal aunt, daughter of brother and daughter of sister.

(2) By fosterage, like his foster mother who gave him suckle, her daughter, her sister, one who suckled her, and sisters, maternal aunts and paternal aunts of his foster father and foster mother, and children of his foster brothers and foster sisters, and his foster children, brother's daughters and sister's daughters of his own brother and sister etc.

(3) By marriage with ascendants and descendants (*mashirat*), like one's ascendants, for example father, paternal grandfather, maternal grandfather; one's descendants, for example son, son's son, daughter's son, their wives

and women they touched with lust, and likewise mother, paternal grandmother or maternal grandmother of one's wife.

(4) Polytheist woman is prohibited for a Muslims man.

(5) Apostate woman, who exits Islam after being Muslim, is prohibited even if she accepts the religions of the people of books.

(6) Fifth wife, in presence of four wives in marriage, is prohibited.

(7) Combining two relative women by marrying and keeping marriage with both, for example when he is married to a woman, marriage with her sister, paternal aunt, maternal aunt, brother's daughter, sister's daughter would be prohibited so long as she remains married to him.

(8) When he is married to a free woman, marrying a slave woman would not be permissible so long as the free woman remains married to him.

(9) Marriage with a woman to whom he has divorced by pronouncing three repudiations would remain prohibited until *halalah*.

(10) Marriage with woman with whom he committed *lian* and would remain prohibited until he denies his statement.

(11) A woman who is still married to another man.

(12) A woman who was married to another man and is still enduring her waiting period (*idah*). These are some summaried points. And Allah the Exalted knows better. (11:517)

A Gift for Women: On prohibition arising from adultery

Hiba al-Nisa fi Tahaqquq al-Masahirat bi al-Zina (1315)

Summarized Question: Sayyid Muhammad Abd al-Subhan (Bihar), 2 Shawal 1315H.
Zayd committed adultery with his mother-in-law and his wife knows it. Has Zayd's wife become prohibited for him in this situation? If she has become prohibited for him, would divorce be required between them or not? If she continues to live with him, consummates with him and gives birth to a child, would that child be entitled to inheritance upon his death or not?

Summarized Answer:
Zayd's wife has become a prohibited woman for him even if she does not know about the unlawful act. The prohibition must result in a separation between Zayd and his wife and has vitiated the marriage between them but it cannot not happen automatically. They must separate and the woman cannot marry another man before the end of waiting period (*iddah*). Consummation during the waiting period is prohibited but not adultery, and the child resulting from the consummation would be their legal child. Accordingly, the child would be a legal hier of both of them, but they would not be legal heirs of one another. (11:353)

Chapter on Guardians (*Awliya*)

Men who are guardians

Summarized Question: from Abd al-Rahim Khan, 1 Rajab 1329H.
Would the words of the guardian of a woman or the woman (bride) herself be accepted at the time of marriage contract? Who is to be guardian? Reply and be rewarded.

Answer:
If she is an adult, her own offer or acceptance is required and it may be through an agent (*wakil*). If she is a minor, it would be from her guardian.

A guardian is not appointed by any person. The individuals who can be guardians are already specified by the Sharia. Her first guardian is her son, then her father, then her paternal grandfather, then her real brother, then her step-brother, then her real nephew (brother's son), then her step nephew, then her paternal uncle, then her step-uncle, then son of her real paternal uncle, then son of her step uncle etc. A sane and adult man from descendants of her grandfather and great grandfather who has nearer relation to her would be her guardian. If there is none, then her mother would be guardian. In similar way, people from *farayz* then *dhawi al-arham*, and if there is none then the Muslim ruler would be her guardian. (11:235)

A Suggestion for Rebuttal:
On need to ratify marriage by the closer guardian

Tajwiz al-Rad an Tazwij al-Abad (1315)

Question: from Maulana Wasi Ahmad Soorty (Pilibhit), 10 Rajab 1315H.
(1) If a distant guardian of a woman marries her away in absence of a close guardian, can the close guardian revoke the marriage if he disagrees with the marriage, or not?

(2) Explanations of the 'disconnected' (*munqata*) absence (of close guardian) are stated as: (i) duration of *qasar*, or (ii) distance that creates difficulty of reaching opinion, or (iii) a land that cannot be reached more than once by the caravans in one year. Which one of these explanations is can be relied upon?

Summarized Answer:
(1) Yes, provided the absence is not disconnected.

(2) Fatwas have been based on point (i). Point (ii) was adopted by Imam Quduri. There are total seven views in this respect but points (i) and (ii) are stronger. However, the rule to be relied upon is that where the *kaffah* (man having equality in status) would not wait till the permission of the close guardian and the delay may result in losing that man, then the absence of the close guardian would be considered as disconnected. (11:585)

Chapter on Equality of Status (*Kafaah*) in Marriage

Marriage by a woman with her *kafaah*

Question: 18 Dhilhajjah 1318H.
Hamid and Mahmuda were relatives such that Mahmuda could meet him and they lived in the same house during childhood. Hamid's wife died in year 1898 and, with the consent of the parents of both of them, Hamid was engaged to Mahmuda. After the engagement, a date was fixed for the marriage. However, Hamid being a government servant could not obtain leaves from his office for that date and the marrage did not take place on the fixed date. Later there were some official dispute at his workplace and Hamid was separated from his employment before another date for the marriag could be fixed.

Upon efforts by Hamid's parents to fix another date, the parents of Mahmuda have presented the reason that they are not interested in the marriage because Hamid has become unemployed. Hamid and Mahmuda both are adults. She ensures *parda* with him since the date of the engagement. When Mahmuda came to know the situation, she clearly informed her mother that she would not marry to another man who is affluent and wants to to marry the man she has had the engagement

(Hamid). Mahmuda's father is a wealthy man whereas Hamid is a man from middle class. Her father is putting in effort to marry her to a wealthy man. He does not care about the wish of Mahmuda, therefore, Mahmuda wants that, before she is coerced by her father, she should marry Hamid and her parents do not know about the marriage. Hamid also wants this.

The question before ulema is as follows. If qadi completes the contract of the marriage only in presence and with the knowledge of the witnesses and the agent, and gets satisfied about their offer and acceptance, would such a secret marriage be permissible and not defective in any manner?

Summarized Answer:
A marriage contract completed herself by an adult woman, whether kept secret or in public, without the permission of her guardian, is complete and valid only on the condition that the husband is her *kafaah*, that is he is not such low in religion, lineage, profession, wealth and character that would make the marriage contract a reason for disgrace, shame and damage to reputation for her guardians. If he is such low on these parameters, the marriage contract would not complete. Therefore, if Hamid is her *kafaah*, as it appears from the question, because her father was willing to marry her to him earlier but is now reluctant because of Hamid's unemployment, the marriage would be valid. However, Mahmuda would be liable for anger of her parents. (11:214)

A Remedy for Insult: Against marriage with the Wahhabis

Izalat al-Aar bi Hijra al-Karaim an Kalab al-Nar (1315)

Question: from Muhammad Khalil Allah Khan (Rampur State)
Is marriage of a Sunni Hanafi woman, whose father is also Sunni Hanafi, to a man who is a *Ghayr-i muqallid* Wahhabi permissible or not? Would doing so be an act of sin or not? Reply and be rewarded.

Summarized Answer:
The Wahhabis, the Rafdis (Shiites) or whosoever have faith that involves infidelity, like denial of the End of Prophets on the Prophet Muhammad or believing in deficiencies in the Quran saying it to contain human intervention, then marrying a Muslim woman with such a man would be illegal and merely adultery. The rule is same for reverse situation that is marriage of a Muslim man with such a woman. The reason is that one who claims to be Muslim but has faith involving infidelity are same as an apostate. An apostate man or woman cannot be lawfully married to anyone in the World whether Muslim, non-Muslim, apostates or anyone else. (11:373)

Chapter on Agency (*Wakalah*) in *Nikah* and Other Matters

Marriage contract through an agent

Question: from Abd al-Rahim Qadiri Ridawi (Lucknow), 6 Rajab 1339H. Zayd is unable for any reason to go for completing his marriage contract. Can he send his spiritual brother (*pir-bhai*) as a guardian to complete the marriage contract for him, or not? Reply and be rewarded.

Answer:
That is called an agent (*wakil*) and not a guardian (*wali*). Zayd may send someone as his agent for the offer and acceptance. The person (*qadi*) completing the marriag contract would ask, "Your principal namely so-and-so son of so-and-so who is son of so-and-so has been married to her on so much dower," and the agent says, "I hereby accept her on behalf of my said principal for him;" or the agent says to the woman (bride)/her agent if she is a minor, "I have taken you/so-and-so daughter of so-and-so son of so-and-so who is your principal or of whom you are guardian in marriage," and the woman/her agent or guardian says, "I hereby accept it." In such situations, the marriage contract would be complete. And Allah the Exalted knows better. (11:683)

A Remover of Bad:
On a practice of permission for marriage

Mahi al-Dhalalat fi Ankahat al-Hind wa Bangala (1317)

Summarized Question: 12 Jamdil Awwal 1317H.
As a practice in India and Bengal, a guardian makes another person an agent to obtain consent of Hinda (the bride) for marriage and sends that person with two witnesses to Hinda. The person goes to Hinda and asks her to make him the agent for her marriage. She either remains silent or makes the sound 'hmm.' The person then comes to the groom with the two witnesses and informs the qadi upon asking that Hinda has sent him as agent for her marriage and the two persons are the witnesses for the agency and that qadi should marry Hinda to the groom. The qadi seeks the acceptance of the groom for the offer by mentioning agent, witnesses and dower and concludes the proceeding. Would this marriage contract be valid or not?

Summarized Answer:
Permission of a woman is taken where she is adult and sane, and the consent of such a woman is valid according to the Sharia and the silence of a virgin is also her consent. This, however, applies to situation where a close guardian (*wali-i aqrab*) obtains her permission else her silence would not be her consent. Since most of the persons made agents to obtain permission are either strangers or distant guardians (*wali-i bayid*), so where they obtain permission of virgin and she remains silent, their agency would not be valid; and where she says 'hmm' or remains silent while a close guardian seeks her permission, the agency would be valid.

However, an agent for marriage has the authority to conclude the contract of marriage himself rather than permit another person to conclude the contract until he has unqualified permission or is specifically permitted to make another person an agent. Without such a permission, if he permits another to conclude the contract, it would be a contract concluded without permission, even if the contract is concluded before him. Such a contract is contract by unauthorized agent (*fuduli*) which is concluded as suspended (*mawquf*) subject to ratification. If the woman ratifies the contract later, the marriage is permitted, but if she refuses, the marriage would become vitiated. The ratification by her may be expressed or implied. (11:141)

Chapter on Dower (*Mahr*)

Types of dower

Question: from Molvi Abd al-Ghani (Muradabad), 8 Ramadan 1324H.
What are the meanings of immediately-payable dower and deferred dower? When can a woman demand payment of her dower in another kind? Is a reason required for it and are there any limits for the amount?

What is the meaning of immediately-payable dower? When can a woman demand payment of her dower? Is a reason required for it and are there any limits for the amount? Reply and be rewarded.

Summarized Answer:
Dower can be of three types.

Firstly, dower can be immediately payable. This is one agreed to be payable before she departs with him. Woman has the right to demand and receive it before the departure and she may not depart until it is received. If she departs before receiving it, even then she has the right to demand it anytime and deny him access to her until its receipt, even if 20 years have passed since the departure.

Secondly, dower can be the one payment of which is deffered for agreed period, for example that it would be paid after 10 years, 20 years or 5 days. In such situations, she would not have the right to demand the

payment until that period has passed. After the period has lapsed, she can demand the payment anytime.

Thirdly, dower can be the one payment of which is neither agreed in advance nor any period has been agreed, and it has been fixed unconditionally and without specifics. This is the prevalent practice (in our region). In this situation, a woman cannot demand payment until his death or divorce. (12:170)

A Detailed Note: On delay of access by wife until payment of dower

Al-Bast al-Masjal fi Imtina al-Zauja Bad al-Wati lil Muajal (1305)

Question: from Muhammad Nabi Khan (Muradabad), 1 Jamdi al-Akhir 1305H.

(1) Zayd is married to Hinda. One half of the dower was agreed to be paid immediately and the other half was deferred. According to the practice, Hinda moved to the house of Zayd and consummation took place with her consent. Later, Zayd proved to be of objectionable character and started hurting and inflicting pain to her. For these reasons, Hinda moved back to the house of his father and still denies her return until the immediately payable part of the dower is paid. In this situation, would Hinda be entitled to deny him access until the immediately payable part of the dower is paid, or not? Would it be an act of sin for her if she denies the access? Reply and be rewarded.

(2) If she allows access without immediately payable dower, would she lose the right to deny the access. Reply and be rewarded.

Summarized Answer:

(1) In the stated situation, Hinda is entitled to deny access and has the option to prevent her husband from meeting until the immediately payable part of the dower remains unpaid, and it would not be an act of sin on her part.

(2) Research of the matter is that access without immediately payable dower with the consent of wife does not result in her losing the right to deny the access or travel with her husband, according to the opinion of Imam Abu Hanifa. (12:101)

Chapter on Dowry (*Jahaz*)

Ownership of dowry

Question: 25 Safar 1306H.
A woman was married by her father who also gave her jewelry, household items and property as dowry. Would she or her husband be the owner of these assets during her lifetime? Reply and be rewarded.

Answer:
All those assets are entirely in the ownership of the woman and no one else has any right over these. It is stated in Rad:

> Everyone knows that dowry is owned by the woman and where her husband divorces her, she would take away all the dowry. If the woman dies, it would be distributed as her inhertance among her heirs and the man cannot fix anything from it for himself.
>
> And Allah the Exalted knows better. (12:201)

Ownerhip of assets given by in-laws of woman

Question: 25 Rabi al-Akhir 1320H.
At the time of marriage of Zayd, his parents gave dresses and jewelry (to the bride) according to the customary practice. Upon marriage, parents of the bride gave dresses and jewelry as dowry. After marriage, Zayd gave her some jewlry and also gave some dresses other than dresses given in routine. The woman has not waived off dower due on him until his death and has neither visited him at the time of his death. Zayd does not own any property in his name. Who would be owner of those assets? Would dower by payable by anyone or not? If it is payable, who is liable to pay it?

Answer:
The jewlry, household items, dresses etc given to her as dowry are owned by her only.

The assets given from husband's family would be owned as per the customary practice: If the customary practice is that women own these, those assets would be owned by her; and if the customary practice is that women are not considered owners of these, those assets would be owned by those who had given these whether husband's father or his mother or he himself.

For the jewlry given by husband after marriage, if he had made the woman owner of these, that is he had said that he had given these to her or made her owner and she has the possession, then these jewlry items would be owned by her. If he had given these to her for usage only, he remains the owner.

If he had not said anything, the ownership would be as per the customary practice. If giving jewlry to wife in this manner is considered making her owner, then she would be owner upon taking possession, otherwise he would be the owner.

The dower is payable by her husband. If any assets owned by him, like the said jewlry where it is owned by him, is in her possession, she might recover the dower from it. If she does not find any asset owned by her husband, she cannot claim it from his parents if they were not the guarantors of the payment of dower. The matter would be decided on the Day of Judgement, and it is better that she waives that. And Allah the Exalted knows better. (12:256)

Chapter on Marriages of non-Muslims

Marrying a Chiristian or Zoroastrian (*majus*) woman

Question: from Mujtaba Ali Khan (Bhopal), 10 Ramadan 1337H.
There is a woman who is either Chiristian or Zoroastrian (*majus*) and has not converted to Islam and still practices her religion. A Muslim man wants to marry her and she has not converted to Islam, would the marriage contract be permissible or it would be permissible upon she converting to Islam? Reply and be rewarded.

Answer:
A Muslim man cannot marry a Zoroastrian woman. If he does so, the marriage agreement would be void. Similar is the ruling for marriage with a Christian woman as per one view, and the marriage contract would complete as per another view, but it would be disallowed and an act of sin. On first view, avoiding it is mandatory whereas on second view, avoiding it is obligatory. And Allah the Exalted knows better. (12:262)

Marrying a woman who has converted from Hinduism

Question: from Molvi Muhammad Ibrahim (Banaras), 5 Dhiqaddah 1339H. A Hindu man divorced her Hindu wife as per their religion. The woman has converted to Islam after about four months as per her wish, and in the same session, she has got married. Is the marriage contract valid? Is there a need till end of the waiting period or not? Reply and be rewarded.

Summarized Answer:
In the stated situation, the marriage contract is valid. There is no waiting period for a non-Muslim. When he divorced, he ceases to have any connection with the woman so that after the conversion of the woman to Islam she could wait for his conversion or retraction. In the given situation, there is already the separation because of divorce and there is no waiting period, therefore, no wait would be required, and the woman could marry immediately after the divorce if she converts to Islam. (12:265)

Chapter on Relations with Spouse (*Muashrah*)

Travelling by husband while his wife stays at home

Summarized Question: from Molvi Siraj al-Haq (Meerampur), 27 Rabi al-Akhir 1336H.
How long a man can remain in travel if he has left his wife at home?

Answer:
If the travelling is for a need, it would be as per the need and there is no limit for it. The Prophet has ordered return to home from travel when the purpose of the travel is accomplished and that travelling is a part of divine punishment which prevents from eating, drinking and sleeping, therefore, whoever among you has accomplished his need should return to home quickly.

If the travelling is without need and his wife is not with him, he is not allowed to be travelling for more than four months, as ordered by Hadrat Umar Ibn Khattab (Allah be pleased with him), as stated in the related hadith. And Allah the Exalted knows better. (12:268)

Touching or looking at private parts of spouse

Question: from Sayyid Zahur al-Hasan (Bengal), 23 Jamadil Awla 1336H.
Is it permissible for husband to look at vagina of his wife for better satisfication while having intercourse or touching, and for wife to touch his penis for erection, or not?

Summarized Answer:
Touching private parts of spouse while having intercourse is permissible. However, looking at her vagina has been disallowed by the Prophet and the Prophet informed that it may cause blindness. (12:270)

Chapter on Distributive Justice in Marriage (*Qasm*)

Rights of wives

Question:
Is hurting wife without any valid reason recongnized by the Sharia, not taking care of equal rights of two wives and keeping both in a single house permissible or not? Reply and be rewarded.

Summarized Answer:
A husband is ruler over his wife. The Quran states that men are in charge of women by authority of what Allah has given one over the other and by what they spend for sustenance from their wealth. So much so that a hadith states, "If I had ordered anyone to prostrate to someone, it would have been a wife to prostrate her husband." However, it is not permissible for him to hurt her without any valid reason recongnized by the Sharia.

In fact, the Sharia wants him to remain soft and well-mannered, show preservence and relax her on her negative talks, and make comforts available, that are not prohibited by the Sharia, available to her. The Prophet did relax his wives and said, "No doubt, the one with more complete faith among Muslims is one who is better mannered and is more kind to his

family," and said, "the better amongst you is one who has better behavior with his wife and is the best amongst you in better dealing with his wife." Allah the Exalted says, "And have better behavior with them (your wives)." Imam al-Ghazali has stated in *Ahya al-Ulum al-Din*:

> You should know that good manners with wife is not only that he does not hurt her but also that he does not react harmfully over hurt caused by her and, following the way of the Prophet, shows preservence over her reaction and anger.

The way Allah has specified his rights over her, Allah has also specified her rights over him. Besides these, it is mandatory for him to ensure equality among them (his wives) in foods, clothing and other matters. So much so that if he does not ensure distributive justice, he would raise on the Day of Judgement with a slanted position of his body. Keeping them in one house by coercion is not permissible, and they would have the right to demand separate residence from him. (12:273)

Money sent to her at the time of engagement

Question: from Najib Allah Khan (Haripur), 23 Ramadan 1311H.
Is it permissible to take money from him at the time of engagement or marriage?

Summarized Answer:
If the person paying the money is giving it with the greed that he be married to her, then it would be bribe and giving and taking of it would be disallowed and prohibited. Likewise, where her guardians say that if he pays that much money only then they would marry her to him otherwise not, then it would again be bribe and prohibited. If these are not the situations and it is only a customary practice whereby some money is sent by him to her, like in our areas bracelets and dresses are sent and if marriage does not take place these are returned, then there would be not harm in this act. (12:284)

Chapter on Another Marriage

Permission of first wife for another marriage

Question: from Ehsan Ali (Bareilly city), 2 Rabi al-Akhir 1339H.
Hinda has given birth to several children and only one of them, who is always sick, has survived. Her medical condition is such that, in every pregnancy, she face severe pain and illnesses. The gynecologist recommends everytime of childbirth that Hinda may die in such a situation. The Almighty gives her health everytime after she has faced much pain and incurred a lot of expenses. Therefore, after a recent birth and recovery, Hinda has undertaken not to have intercourse with his husband to save her life and avoid tragedy so that there is no means of getting pregnant. She has asked her husband that if he cannot resist his desire he may marry another woman and if he cannot afford Hinda's maintenance, he may not pay maintenance to Hinda. Accoridingly, her husband has asked her that if the Sharia permits her then he would be willing otherwise not. What is the injuction of the Sharia in this situation? Reply and be rewarded.

Answer:
In such a situation, the husband can act according to the advice of Hinda, proceed for another marriage and remain separate from Hinda so long as Hinda agree. He will be required for maintenance expenses of Hinda if she

lives with him, and if she waives off maintenance expenses, he has the option not to pay for these until she demands these again. If Hinda moves to the house of her parent and does not comes back despite his demand, her maintenance expenses remain suspended until she comes back. (12:279)

A Comprehensive Instruction: On marriage of a widow

Atayab al-Tahani fi al-Nikah al-Thani (1312)

Summarized Question: from Haji Yaqub Ali Khan (Ujayn), 9 Safar 1312H. What is the injuction of Sharia about another marriage of a widow? Some people call it mandatory and not doing so an act of infidelity while some other people consider it not required.

Summarized Answer:
Among the Muslims of India, those who do not know the Sharia are divided into two groups. First group supports insistence on preventing marriage of a widow, like Hindus, and consider it an insult and prohibited act. Second group excessively insists on her second marriage, like most of the orators of the Wahhabis. Research is that another marriage, like first marriage, can be mandatory, obligatory, sunnah, allowed, improper or prohibited depending on the situation.

(1) If a woman fears failure of obeying her husband and discharging obligatory rights of husband, marriage would be disallowed for her. This is a situation of serverly improper.

(2) If that fear extends to firm belief of such a failure, marriage would be prohibited for her.

(3) If she has not such fear and they are in severe need of marriage and there is potential of committing sin, marriage would be obligatory for her.

(4) If the need is so severe that there is firm belief of committing the sin, marriage would be absolutely mandatory, that is where fasting etc are not expected to satisfy. Her guardians are required to insist her on marriage.

(5) If the need is moderate that is neither she is careless about marriage nor she has severe fear of committing sin, marriage would be sunnah for her, where she is satisfied that she would not fail in obeying husband and discharging the rights of husband.

(6) If she has slight fear of failing to obey husband and discharge the rights of husband, marriage would not be sunnah for her but would only be allowed (*mubah*), where the fear is not severe to render it disallowed, as stated above. (12:287)

Chapter on Fosterage (*Rada*)

A Good Expression: Against marriage with children of foster-brother

Al-Jali al-Hasan fi Hurmat wa al-Dakhi al-Liban (1315)

Question: from Molvi Ikram al-Din (Lahore), 23 Jamdi al-Awwal 1330H. A man is foster-son of his sister. The man and his sister want that his son be married to the daughter of that sister. Would such a marriage be valid?

Summarized Answer:
The Prophet has informed that what is prohibited by lineage is also prohibited by suckling/fosterage (*rada*). Son and daughter of a person's brother are prohibited by lineage and son and daughter of a person's sister are prohibited by lineage, so these all are also prohibited by fosterage. No doubt, foster-son and foster-daughter of a person's mother are brother and sister of that person. Where all children of the woman who gave suckling have become brother and sister of the man who suckled, the children of the man would be the children of those brothers and sisters, and the children of brothers and sisters are prohibited. (11:487)

Against marriage with daughter of foster-brother

Question: from Abd al-Rab (Hazari Bagh, Chattarpur), 22 Rajab 1334H.
Wife of Zayd gave suckling to Bakr during infancy of her son Amar. Later, she gave birth to three sons: Muhammad Said, Muhammad Fazil and Muhammad Salim. Is marriage of Bakr's daughter permissible with Muhammad Salim, or not?

Answer:
Daughter of Bakr is real niece of all children of the wife of Zayd and marriage of them with her is prohibited. And Allah the Exalted knows better. (11:278)

BOOK OF DIVORCE

BOOK OF DIVORCE

Chapter on Divorce Conforming to the *Sunnah* (*Talaq al-Sunnah*) 183
Pronouncing three repudiations at a time 183
Section on Legal Capacity for Pronouncing Divorce 184
Divorce by a minor 184
Chapter on Pronouncing Divorce 185
The Unveiling of the Truths: On the wording used for irrevocable repudiation 185
Section on Divorce Prior to Consummation 186
Waiting period where marriage is not consummated 186
Chapter on Divorce Through Indirect Expressions (*Kinayah*) 187
He said her to leave his house 187
Chapter on Delegation (*Tafwid*) 189
Delegation to her before marriage is not sufficient 189
Section on Divorce at One's Discretion (*Mashiah*) 190
Giving discretion to wife to divorce herself 190
Chapter on Oaths Pertaining to Divorce (*Taliq al-Talaq*) 191
An Important Research: On his oath of divorce when she skips prayer 191
Chapter on Recourse to Wife by Retracting Divorce (*Rajah*) 193
Manner of retracting a revocable repudiation 193
Chapter on Vow of Continence (*Ila*) 195
Definition and effect of a vow of continence 195
Chapter on Redemption (*Khul*) 197
Manner of redemption 197
Chapter on Injurious Assimilation (*Zihar*) 199
Expiation for injurious assimilation 199
Chapter on Imprecation (*Lian*) 201
His blame of adultery on her and repudiation 201
Chapter on Impotence and Other Causes of Divorce 203
Proceedings on proof of his impotence 203
Chapter on Waiting Period (*Iddah*) 205
Duration of waiting period in various situations 205
Chapter on Mourning (*Saug*) 207
Things prohibited for her during her waiting period 207
Chapter on Proof of Paternity (*Nasab*) 209
Lineage to be referred towards father 209
Chapter on Right to Custody of Child (*Hidanah*) 211
Right of custody and the decision of minor's marriage 211
Chapter on Maintenance (*Nafaqah*) 213
Maintenance for wives 213

Chapter on Divorce Conforming to the *Sunnah* (*Talaq al-Sunnah*)

Pronouncing three repudiations at a time

Question: from Advocate Ahmad Ali Khan (Kanpur), 12 Dhilhajjah 1322H. Zayd pronounced three repudiations at a time in anger. It became *mugallizah* (irrevocable) divorce according to Imam Abu Hanifa and remained one repudiation according to Imam Shafai. In this situation, does a follower of the Hanafi school have option to recourse or not? Zayd loved Hinda (his wife) and did not intend to divorce. Hinda also did not expect that she would be divorced because she was ashamed on her disobedience. A sister of Hinda in her enemity said some words to make Zayd angry and in that situation Zayd pronounced three repudiation and left the house of Hinda. Now Zayd and Hinda are very sad. Their two kids, a boy who is 9 and a girl who is 5, are with Hinda, their upbringing is difficult for Hinda and there is risk of they remaining uneducated. Zayd is extremely sad. Is the recourse possible for him, or not? Reply and be rewarded.

Summarized Answer:
Pronoucing three repudiations in one time result in *mugallizah* divorce not only according to the Hanafi school but also according to all the four

schools. No imam of the schools of Imam Shafai, Imam Malik or Imam Ahmad Ibn Hanbal has opposed this view. In the stated situation, Hinda has been pronounced three repudiations. Pronouncing three repudiations at a time is an act of sin, and Zayd has committed an act of sin. Hinda has exited from his marriage contract such that she cannot be married to him without *halalah*. If he recourses (without *halalah*) and remarries her, they would be engaging in a prohibited relation.] (12:409)

Section on Legal Capacity for Pronouncing Divorce

Divorce by a minor

Question: from Taj Mahmud (Gujar Khan, Rawalpindi), 18 Shawal 1338H. A minor boy asked his father to divorce the boy's wife. The father pronounced the divorce. Can this divorce take effect, or not?

Answer:
A minor can neither pronounce divorce himself nor authorize an agent to do so on his behalf. His father also cannot divorce as his guardian; the reason is that it is destruction whereas guardianship is for kindness. And Allah the Exalted knows better. (12:374)

Chapter on Pronouncing Divorce

The Unveiling of the Truths: On the wording used for irrevocable repudiation

Rahiq al-Ahqaq fi Kalimat al-Talaq (1311)

Question: from Ghulam Husain Hala (Baroda), 11 Jamadi al-Akhir 1311H. A man married a woman and pronounced irrevocable (*bayn*) divorce after few days. Is it permissible or not? What is an irrevocable divorce? What is the method of an irrevocable divorce?

Summarized Answer:
An irrevocable divorce is one that results in an immediate exit from the marriage contract.

(1) If there has been not consummation or intercourse after the marriage, even if the couple has met in privacy (*khalwat*), and divorce is pronounced, it would be an irrevocable divorce.

(2) If the number of repudiations reaches to three, in one time or in ten years, it would be an irrevocable divorce. This would, in fact, be a major form of irrevocable divorce because he cannot remarry her without *halalah*.

(3) Third form of irrevocable divorce may be where repudiation is pronounced againt receipt of an asset by him from her. For example, he

says that he has pronounced divorce against 1,000 rupees or against her dower, and she accepts it; or she says that she has waived her dower or a liability of her on him on the condition that he pronounces dirvorce to her, and he pronounces the divorce.

(4) Any type of repudiation from which waiting period has completed without recourse, then divorce would become irrevocable.

(5) If divorce is pronounced after intercourse and the number of repudiations has not reached to three, it is not againt an asset and the waiting period has not completed, the divorce would be irrevocable immediately after pronouncing repudiation depending on the words used by him. There are certain words for irrevocable divorce, and there are certain words that would give option of recourse during the waiting period after the pronouncement. The author then states wordings that result in irrevocable divorce and those that result in the option of recourse during the waiting period after the pronouncement. (12:513)

Section on Divorce Prior to Consummation

Waiting period where marriage is not consummated

Question: from (Sattar Ganj), 3 Jamadil Akhir 1305H.
Hinda was married to Zayd but consummation did not take place (on the first night). On the next morning, Hinda waived the dower through some persons and Zayd pronounced the divorce. In this situation, would marriage of Hinda with Amar be permissible on the same evening, or not? Reply and be rewarded.

Answer:
In the given situation, if husband and wife have gathered at a place in privacy such that there has been no real hindrance for consummation, and Zayd pronounces divorce thereafter, the waiting period (*iddah*) would be obligatory for Hinda even if intercourse has not taken place. Accordingly, if she marries with another man during the waiting period, which is three cycles of mensuration after the divorce, the marriage contract would not be valid and be prohibited. However, if the privacy was not there and she is divorced, the waiting period would not be obligatory for her and she can marry another man immediately. (12:369)

Chapter on Divorce Through Indirect Expressions (*Kinayah*)

He said her to leave his house

Question: from Muhammad Bashir Ahmad (Pilibhit), 15 Rajab 1339H.
Zayd who is nearly a qualified scholar has said, in a sane condition, to his wife several times that he has happily given permission to go anywhere and live alone or marry anther man. However, the wife remains silent upon hearing this. After few days, Zayd said that he was sad upon her not leaving him despite his permission. Upon such insult, she has prepared to leave the house. Zayd has handed over papers of some agricultural land. She is not happy with Zayd and has severed the relation. What is the injunction of the Sharia in this situation?

Answer:
These stated words of Zayd are words of indirect expression. If he said those words with intention of pronouncing divorce, one repudiation has taken place and she has exited from the marriage contract. He could remarry her without *halalah* with her consent if he did not pronounce two repudiations earlier. If he vows for denial of the intention to divorce, it

would not be considered repudiation. If he makes a false vow, he would be sinful for it. And Allah the Exalted knows better. (12:571)

Chapter on Delegation (*Tafwid*)

Delegation to her before marriage is not sufficient

Question:
Before their marriage, a man agreed with a woman thereby giving her option to divorce herself if she finds him marrying another woman. Later, he has entered into another married contract, she has divorced herself immediately according to the delegated right, and he does not agree to her decision. Has divorced taken place or not? Would such a condition before marriage contract be valid or not?

Answer:
If the words he had said before their marriage were the same and to the extent as stated in the question, she would not have right to divorce herself upon another marriage; the divorce by her to herself would not be sufficient until he ratifies it. It is because ownership or attachment towards it is necessary while prounoucning (right to) divorce and that is not present here (since the delegation preceded the marriage); alternatively, it would be the divorce by an unauthorized agent (*faduli*) (conveying the information) whereas divorce by an unauthorized agent remains suspended until ratified by the husband.

A condition before marriage contract with the words as stated in the question is useless and unclear. And Allah the Exalted knows better.(12:642)

Section on Divorce at One's Discretion (*Mashiah*)

Giving discretion to wife to divorce herself

Question: from Mulla Yaqub Ali Khan (Ujayn), 14 Rabi al-Akhir 1310H.
(1) The brother of Abd Allah has been sentenced to life imprisonment. He has not divorced her wife. She cannot live without a husband. What is the injunction for this situation?

(2) Another question is that the husband of Mahmuda is out of contact for 12 years, his wife is young and cannot control herself. According to the rule of the Maliki school of law, she was married to Mir Taqi after waiting for four years after the disappearance (of her first husband) but the first husband has returned some days after her second marriage. Would she be treated as wife of the first husband or the second husband? Who would be liable to pay the dower? Please reply with references from law books.

Answer:
(1) The brother of Abd Allah should divorce his wife. Almighty Allah has ordered to either keep wife with good behavior or free her in a nice manner. Since he is unable to keep her, it is obligatory for him to free her. For this obligation, if he does not want to pronounce divorce, it would be sufficient if he delegates the right to her for divorcing herself. The purpose is to prevent her from locking, and the purpose would be achieved if she is given the right of divorce to her, that is, where he hands over a written delegation of the right to her to divorce herself that she could exercise anytime to free herself from him.

The benefit of the delegation would be that she would be able to decide according to her situation. She can remain faithful to husband and be patient, or she can take the other way being pressed by her need.

However, it would be prohibited for her to marry another man until the separation from the husband. Almighty Allah has stated that women who are presently married are prohibited for other men.

Summary: (2) The woman is wife of her first husband and she is required to accompany him. (13:341)

Chapter on Oaths Pertaining to Divorce (*Taliq al-Talaq*)

An Important Research: On his oath of divorce when she skips prayer

Aqid al-Tahqiq bi Bab al-Taliq (1322)

Summarized Question: from Abd al-Majid (Bengal), 6 Moharam 1322H. Ahmad Ali said to his wife after evening prayer, "If you do not offer prayer (*salat*), I pronounce two repudiations to you." But she did not offer the night prayer. She offered morning prayer of the next day. He retracted from the repudiations after the morning prayer. After some years, he has pronounced two repudiations without any condition. Is it permissible for him to retract now, or not? Has not she become prohibited after three repudiations? The man has now been given a fatwa on a question about legal position of the oath pertaining to the divorce to which a Wahhabi scholar has replied. The question and the answer are attached for perusal.

Summarized Answer:
In the stated situation, she has ceased to be his wife and cannot lawful for him without *halalah*. Allah the Exalted has said, "If he pronounces third

repudiation, she would not be permissible for him until she has married another man." The excuse now being presented by Ahmad Ali on hint from someone, whereby he claims that he meant to say by the oath that she would be divorced if she does not offer prayer in her entire life, is a lie and an invalid excuse. (13:155)

Chapter on Recourse to Wife by Retracting Divorce (*Rajah*)

Manner of retracting a revocable repudiation

Question: from Fadal Husain (Haridwar)
A man in anger said to his wife, "If you come to my house, you are divorced, and if I connect (to have intercourse) with you, it would be prohibited." Do these words prove divorce or not? Is there any problem if she gets married to another man now?

Answer:
At the time of the above oath, if she was out of his house, she would be divorced with one revocable repudiation upon her return to his house.

If she was at his house, she would not be divorced until she remains in the house, and she would be divorced if she goes out and comes back to the house of her husband. In any case, it would be a revocable repudiation.

If the husband retracts the divorce by saying that he brings her back into marriage with him, she would remain his wife and she cannot marry another man. However, after pronouncing the repudiation, if he does not take her back in marriage with him so much so that three cycles of her

mensuration start and complete, then she would cease to be in marriage with him and her marriage with another man would become permissible. And Allah the Exalted knows better. (13:206)

Chapter on Vow of Continence (*Ila*)

Definition and effect of a vow of continence

Question: 13 Shaban 1311H.
What is a vow of continence (*ila*)? What is the injunction about it? Does it result in *mugallizah* divorce? Reply and be rewarded.

Summarized Answer:
There are five conditions to this.

(1) Where a man vows to avoid intercourse with his wife or takes an oath, that is, where he says, "If I have intercourse with her, I would be liable for such effort."

(2) This vow or oath is either unqualified, for example "I will not have intercourse with you" or "If I have intercourse with you, I would be liable for one fast;" or his vow is for unlimited duration, for example "Swear to Allah, I would never have intercourse with you," or "If I have intercourse with you, I would be liable to perform *Hajj,*" and where it is for a fixed term, that term would not be of less than four months, for example "I vow to avoid coming near to you for four months," or "If I have intercourse with you in five months, I would offer 100 *rakahs* of prayer."

(3) In case of the oath, the obligation taken up must result in hardship for him, as stated in above examples or that "My slave would be free," "I

would dirvorce you," "My wealth would be donated" or "Expiation of the vow would be due on me" etc.

(4) That action is capable of becoming obligatory upon the oath, like prayer, fast, *Hajj*, *sadaqah*, seclution in masjid, *Umrah*, emancipation (*ataq*), divorce, expiation and like, rather than those like ablution, bathing, reciting the Quran, prostration becoming obligatory upon reciting a verse requiring prostration, following a funeral prayer and like, because these acts do not become obligatory with an oath.

(5) The vow or oath is expressed in such a way that the act becoming obligatory cannot be avoided and does not result into a situation where he has intercourse with her and nothing become obligatory.

Where all the above-stated five conditions are present, it would be a vow of continence. If even one of these conditions is missing, this would not be a vow of continence. A vow of continence does not result in *mugallizah* divorce. (13:257)

Chapter on Redemption (*Khul*)

Manner of redemption

Question: from Amir Allah (Hali), 12 Jamadil Awla 1336H.
According to the custom of her cast, Zayd's sister who was a minor was married to Bakr. She has now attained puberty. She has learned recitation of the Quran, is regular in offering daily prayers and mandatory fasts, and also does not violate the Sharia in any manner. On the other hand, Bakr does not follow the Sharia. He neither offers prayers nor fasts, rather he makes mokery of her when she offers prayer or fasts. He also drinks *tari* (a kind of light alcohol). Her family tell him to avoid such acts but he does not hear their advices.

For these reasons, she is at her parents' house for a long time now. He has not changed his behavior, and her family is very disturbed as regards her future and cannot keep her without a husband. She wants to proceed with redemption (*khul*) and her family is with her on this. Can she proceed with the redemption in this situation, or not? The marriage has not been consummated as yet.

Answer:
Redemption (*khul* or *khula*) according to the Sharia is one where husband at his own wish terminates the marriage contract against receipt of asset, like dower etc. This cannot be carried out by wife on her own.

A minor girl married by her father also cannot be object to the marriage by her upon attaining puberty. However, if she was married by a guardian other than her father and her huband was of equal status (*kafaah*), that is he was not so lesser in religion, lineage, profession or character that is a reason for insult of her guardians, then she would get the right to cancel the marriage contract upon attaining poberty when she expresses disapproval of the marriage contract immediately upon attaining poberty.

The solution is to obtain divorce from him. This would be in the situation if he remains a Muslim. The question does not specify the type of mokery he has made with her about prayer and fasting. If the mokery is of prayer and fasting, he ceases to be a Muslim and she has ceased to his wife. If their marriage was not consummated, even waiting period would not be required in such a situation and she may marry any man according to her wish. (13:264)

Chapter on Injurious Assimilation (*Zihar*)

Expiation for injurious assimilation

Question: from Aziz al-Rahman Khan (Pilibhit), 16 Dhiqaddah 1312H.
Zayd said to his wife's mother, "I consider, for entire your life, your daughter as my sister." What is the injunction of the Sharia in this situation? Reply and be rewarded.

Summarized Answer:
If he meant to say injurious assimilation (*zihar*) by these words that is, "I have injurious assimilation with my wife," or "I consider her prohibited during your life" then injurious assimilation is established. This means their marriage contract is in place, but it would be prohibited for him to touch his wife with lust during the life of his mother in-law, unless he expiates.

The expiation would be: (1) freeing a slave, (2) if he cannot do so, he may fast for all days of two months, (3) if he cannot do so, he may give grains or equivalent price, like *sadaqah al-fitar*, to 60 poor Muslims or arrange their meals for two times. Until his mother in-law is alive, it would be an act of sin for him to touch his wife without first ensuring the expiation. If he

violates this requirement, he must repent and avoid coming close to her until he has ensured the expiation.

Upon the death of his mother in-law, this injurious assimilation would be discharged, and it would become permissible for him to have intercourse with his wife. During the life of his mother in-law, if he does not ensure expiation that renders her permissible for him, she may have legal claim against him to either ensure expiation or divorce her to free her from the difficulty.

Apparent meaning of the words said by Zayd is injurious assimilation especially where it is limited to a period, for example for lifetime of someone. The injunction for this has been stated above.

If he said those words with intention of divorcing her, an irrevocable repudiation has taken place and she has ceased to be in the marriage contract. The reason is that a repudiation by mentioninig a time period is also an irrevocable repudiation.

If he did not have any intention or he intended to express respect for his wife, that is he meant to say that he loves her equal to his sister, then his words would have no effect, she would remain lawfully permissible for him, and no expiation would be required. (13:283)

Chapter on Imprecation (*Lian*)

His blame of adultery on her and repudiation

Question: from Muhammad Tahsin Ali (Aligarh), 1 Rajab 1339H.
Zayd blamed her wife for bad character and adultery (*badkari*) and said her, "I have left you; you are of no use to me." However, he claims that he did not pronounce repudiation. With the said words, has his wife been divorced or not?

Answer:
If the stated situation is true, two irrevocable repudications have taken place, and she has ceased to be in the marriage contract. If he had not pronounced any repudiation earlier, he can remarry with her consent and new dower; and if he pronounces another repudiation in future, the repudiations would become three and he would not be able to marry her with *halalah*.

If she is not willing to marry him, he cannot force her. If he had pronounced one repudiation in past, three repudiations have completed now and he cannot marry her without *halalah*. And Allah the Exalted knows better. (12:571)

Chapter on Impotence and Other Causes of Divorce

Proceedings on proof of his impotence

Question: from Amanat Ali (Bareilly), 30 Jamadil Awla 1338H.
A man sent marriage proposals for two women. Upon inquiry, the families of girls came to know that he is impotent (and the proposals were rejected). In a third proposal, he was married to another girl through deception and proved to be impotent later. Has the marriage contract taken place validly in this situation?

Answer:
Yes, the marriage contract is valid. If she proceeds for a legal claim, after the proof of his impotence, he would be given one year for doing the needful. If he is able to have intercourse with her during that one year, the matter would be solved.

If he fails, she would again proceed for the legal claim and provide proof of his impotence, the ruler would give option to her to live with him or avail the separation.

If she immediately opts for separation, the ruler would announce separation, and she may marry another man after completing her waiting period in that case. And Allah the Exalted knows better. (12:508)

Chapter on Waiting Period (*Iddah*)

Duration of waiting period in various situations

Question: from Sayyid Amir Alam Hasan (Mewandi), 16 Shawal 1337H. What is the waiting period for widow and what is the waiting period for a divorced woman?

Answer:
Waiting period for a pregnant woman is up to the childbirth, whether she is divorced woman or a widow.

A widow who is not pregnant and her husband dies on first night or first day of an Islamic month, at or before time for afternoon prayer, the waiting period would be four Islamic months and 10 days. If her husband dies on a day other than first day of an Islamic month, the waiting period would be complete 130 days.

If a divorced woman has menstural periods, then her waiting period extends to three periods.

If a divorced woman is one who does not menstruate due to young or old age, her waiting period is three Islamic months. And Allah the Exalted knows better. (13:294)

Chapter on Mourning (*Saug*)

Things prohibited for her during her waiting period

Summarized Question: from Muhammad Mir Khan (Pilibhit), 4 Shaban
What actions or things are prohibited for a woman during her waiting period?

Answer:
The following are prohibited for a woman during her waiting period: every type of ornaments including ring, henna (*mehndi*), *surma*, perfume, silk dress, garlands and flower, fragrance of any type on body or dress, hair setting and where it is unavoidable it can be done with comb of large *dandanay* that can resolve hair, *phulail*, sweet oil, *kusam*, *kesar* color cloths, every color that beutifies her even *gerwa* color, and bangles even that made of glass. Every type of *singhar* is prohibitd until the end of her waiting period. Sleeping on bed and use of carpet for sleeping or sitting are not prohibited. (13:331)

Chapter on Proof of Paternity (*Nasab*)

Lineage to be referred towards father

Question:
Grandfather of Zayd was a Pashtun whereas his grandmother and mother are Sayyid. In this situation, is Zayd Pashtun or Sayyid? Reply and be rewarded.

Answer:
Lineage is taken from father. One whose father and grandfather were Pashtun, Mughal or Shaykh would be from that respective cast even if his grandmother and mother all were Sayyid. It is reported from the Prophet in a hadith with good chain of transmission:

> One who refers his lineage from other than his father, would be cursed by Allah, all angles and human. Allah would not accept his good deeds, whether mandatory or supererogatory, on the Day of Judgment. Imam Bukhari, Imam Muslim, Imam Abu Dawud, Imam Tirmidhi, Imam Nisai and others have reported this hadith from Hadrat Ali, Allah be pleased with him.

Allah has given this attribute only to Imam Hasan, Imam Husayn and their real brothers and sisters that they are sons of the Prophet, and the rule applies also to their real descendants that they are referred towards their

fathers. For this reason, descendants of Imam Hasan and Imam Husayn are Sayyid rather than the descendants of Hadrat Fatima's daughters (Allah be please with her) whose descendants are to be referred towards their father. Anad Allah the Exalted knows better. (13:361)

Chapter on Right to Custody of Child (*Hidanah*)

Right of custody and the decision of minor's marriage

Question:
Zayd died leaving behind his wife, a boy, a minor girl, an adult girl who is married and a brother. Wife who is their mother has later married to another man. The boy is 4 and the girl is 8. Their mother wants to marry the girl to a man. The paternal uncle does not agree and wants to marry her to his nephew. In this situation, who is authorized to decide as regards the marriage of the minor, the mother or the paternal uncle? Who has the right of their custody? The grandmother of the minors is not alive. There is a maternal aunt and two paternal aunts. The paternal aunts are not willing to take their custody. Reply and be rewarded.

Answer:
In the stated situation, only the paternal uncle of the minors is authorized to marry them. In his presence, their mother cannot decide about their marriage. Since she has married to another man, she also does not have the right to their custody. The boy should live up to age of 7 and the girl until she attains puberty with their sister. If the sister does not accept their

custody, they would live with their maternal aunt. If she does not accept the custody, they would live with their paternal aunts. (13:391)

Chapter on Maintenance (*Nafaqah*)

Maintenance for wives

Question: from (Pilibhit), 21 Shawal 1307H.
A man married two women. He pays lesser towards maintenance of one wife. She took loan because of the difficulty in meeting her necessary expenses. Would the loan be payable by the husband or the wife? Can she claim her dower from him any time without divorce?

Answer:
Causing problem to wife is an act of sin, and keeping one of the wives in a lesser condition than the other is an act of severe sin, which is proved from the Quran and Hadith. However, until the amount of maintenance is not fixed with mutual consent and with the order of the qadi, the loan taken to pay for expenses incurred by the women herself would be payable by her. She cannot claim it from the husband, even if she does so for necessary expenses, like meals, and to the extent of need and even if he does not ensure the maintenance out of injustice. It is stated in *Hindiyyah*:

> If she takes loan during waiting period and no amount (of maintenance) has been fixed as yet by the qadi and maintenance is also not fixed by their mutual consent whereas she has spent the amount taken as loan. She cannot claim it from him and this entire exercise would be taken to have

> carried out by her personally. The rule is same whether the husband is present or absent.

However, if maintenance was fixed either by their mutual consent or by the decision of the qadi, for example one rupee daily or 20 rupees per month or a quantity of grains and cloths per annum would be given to her as maintenance, which would be paid by the husband daily, monthly or annualy as the case may be. If it is not paid after the agreement and she takes loan or spends from her own assets, then she would be entitiled to recover it from her husband to the extent of the agreement. (13:422)

BOOK OF VOWS/OATHS (*AYMAN*)

BOOK OF VOWS/OATHS

Chapter on Valid and Invalid Vows/Oaths 217
Vow to commit a sin or deceive another person 217
Chapter on Vows about Entering a Place and Residing There 219
Vow to leave his city 219
Chapter on Vows about Entering/ Leaving Buildings and Other Matters ... 221
Vow about entering the house 221
Chapter on Vows about Eating and Driking 223
Vow about eating at his brother's house 223
Chapter on Vows about Speaking 225
Vow of not talking to him 225
Chapter on Vows about Emancipation and Divorce 227
A Precious Ornament: On vow to divorce if she lets his son enter his house 227
Chapter on Vows about *Hajj*, Prayer and Fasting 229
Vow to offer the prayer with congregation 229
Chapter on Vow of Consecration (*Nadhr*) 231
Animal determined in a vow of consecration 231
Use of thing given in a vow of consecration 231
Chapter on Expiation (*Kaffarah*) for Vow/Oath 233
Manner of expiation 233
Chapter on Scattered Issues 235
Vow given by another 235

Chapter on Valid and Invalid Vows/Oaths

Vow to commit a sin or deceive another person

Question:
Is vow of the Quran valid or not? What is the expiation for vow/oath? If one vows to commit a sin, what should he do? What is the ruling for one who vows to deceive a person but does not intend to do so? Reply and be rewarded.

Answer:
The vow of the Quran is vow according to the Sharia. Where one vows to commit a sin saying that he would drink wine or he would not offer prayer, it would be necessary that he considers himself to have violated such an oath and is to offer expiation.

The expiation for an oath is the emancipation of a slave, or provide dresses to 10 needy persons with one dress for each person and the dresses are to be usable for more than three months and cover the entire body, or feed 10 needy persons. If he is unable to undertake any of the three things, he should fast for three consecutive days.

To protect oneself, false vow to deceive Muslims, that is vow by mouth with intention of opposite, is not permissible. (13:498)

Chapter on Vows about Entering a Place and Residing There

Vow to leave his city

Question: from Shaykh Ashiq Ali (Bareilly), 4 Jamadi al-Awla 1313H.
A person vowed in anger not to live in Bareilly. Upon decline in the anger, he has become worried. Is there any way for him to live in Bareilly and not violate the vow? Or is there any way other than the expiation? Reply and be rewarded.

Answer:
Upon saying the words of the vow, since he did not start preparation for necessary means and strategy or if he did not put in effort or if he did not leave upon completion of preparations, he has violated the vow and expiation has become mandatory. It would be irrelevant now if he leaves or not; the expiation is required and his departure from Bareilly is not required.

If he has been busy in preparation since the vow and has not been lazy which is customarily considered as laziness, he would not be considered as having violated the vow until he is preparing. He would be required to leave Bareilly immediately upon completion of the preparation.

There is no way for him to live in Bareilly on his own without the expiation. However, if he was preparing but is locked by someone and was compelled not to leave, he would not be considered as having violated until he is hostile in this manner, even if a long time passes. Likewise, if he has no place to live except in Bareilly and he does not have wealth or profession or business to live at another place, he would be considered as compelled, until such a situation persists. And Allah knows better. (13:500)

Chapter on Vows about Entering/ Leaving Buildings and Other Matters

Vow about entering the house

Question: from (Chittagong), 9 Jamadil Akhir 1336H.
Where a person says, "If I talk to you or enter your house or eat this thing, it would be prohibited for me or it is prohibited," would this wording make that thing prohibited for him? If it becomes prohibited in this manner, what would be the solution?

Answer:
Yes, according to juristic preference (*Istihsan*), this is a situation of oath, and the vow is for prohibition of a permissible thing. After this vow, if he talks to him, enters his house or eats that thing, he would be considered as having violated the vow and expiation would be required.

This is based on juristic preference as stated in *Rad* from *Nahr* and *Fath* with reference to *Muntaqa* and that mentioned in *Khulasah* and then in *Bahr* and then in *Dur*. And Allah knows better. (13:579)

Chapter on Vows about Eating and Driking

Vow about eating at his brother's house

Summarized Question: from Ghulam Gilani (Camelpur), 18 Shaban 1334H.
Zayd vowed not to eat meal in the house of his brother. After this, his relatives pressurized him to eat in a wedding, he said that he could imagine the eating and could not eat in real. Some ulema have ruled over this that Zayd has violated the vow.

Summarized Answer:
A man informed Hadrat Ali, Allah be pleased with him, that so-and-so man has committed adultery with the mother of so-and-so in dream. Hadrat Ali ordered whipping of lashes on shadow by making him stand in the sunshine. In sum, such questions are not expected from the people who have knowledge, as it is apparent that an award is given where the related condition is met. As the condition in the question is eating a meal, the condition would be eating meal rather than imagining it. Imagining a meal does not result in eating the meal. This is known to even an intelligent child

and is also against the logical thinking. If eating is not established without having meal, the vow would also be not violated without the meal.] (13:575)

Chapter on Vows about Speaking

Vow of not talking to him

Question: 5 Jamadil Akhir 1306H.
Zayd vowed that his wife would be divorced if he talks to Bakr. Later, Bakr died and Zayd visited his grave and offered blessing. In this situation, has the wife of Zayd been divorced? Regards.

Answer:
In the stated situation, Zayd's wife has not been divorced. The reason is that vows are based on custom (*urf*) and talking after death is not customarily considered as talking. (13:495)

Chapter on Vows about Emancipation and Divorce

A Precious Ornament: On vow to divorce if she lets his son enter his house

Al-Jauhar al-Thamin fi Ilal Nazila al-Yamin (1330)

Question: from Molvi Ghulam Gilani (Attock), 11 Moharam 1330H.
Zayd was angry with his son on an unpleasant matter. He said to his wife that if she let his son enter the house, she would be divorced with three repudiations. Later, the son apologized Zayd, he forgave him and let him come inside his house. On this, his wife did not say anything. In this situation, has the wife of Zayd been divorced? Reply and be rewarded.

Summarized Answer:
Upon checking in detail and analysis, I did not find any satisfactory reason for absence of the divorce in this case. The denial of entry in the house can be in two ways: prohibiting in practice and prohibiting by words of mouth. The wording in the question shows that she did not prevent her son from entry in either of the two ways. Hence, three repudiations to the wife have taken place. (13:511)

Chapter on Vows about *Hajj*, Prayer and Fasting

Vow to offer the prayer with congregation

Question: 27 Ramadan 1327H.
Zayd vowed to offer the noon prayer of that day in masjid with congregation. He reached the masjid but the imam had offered first two *rakahs*, and Zayd offered two *rakahs* with the imam. Has Zayd violated the vow in this case, or not? Reply and be rewarded.

Answer:
Zayd has not completed his vow as the one who finds two or even three rakahs with imam is not considered as having offered the prayer with congregation. It is stated in *Dur*, "One who finds three *rakahs* of a congregation prayer would not be considered as having offered the prayer with congregation, according to the obvious opinion."

He would get reward of the congregation prayer, but that is a separate matter. In fact, it is proved from a hadith that one who leaves his house with the intention to offer prayer with congregation but finds upon reaching the masjid that congregation prayer has completed would get the reward

(for the congregation prayer). He would be rewarded by Allah. And Allah the Exalted knows better. (13:499)

Chapter on Vow of Consecration (*Nadhr*)

Animal determined in a vow of consecration

Question: from Qadir Bakhsh (Barkhan, Balochistan), 14 Rabiul Awwal 1337
A man undertook vow of consecration that if his so-and-so need is fulfilled, he would slaughter so-and-so bull or so-and-so goat in the name of Allah with the blessing of so-and-so *Shuyukh*. Upon the need being fulfilled, he intends to give some goats in place of so-and-so bull. Would giving some goats in place of the bull for which he had vowed be permissible?

Answer:
It is not permissible to change the animal determined in a vow of consecration. Allah states that it is required of Muslims that they fulfill their vows of consecration. And Allah the Exalted knows better. (13:585)

Use of thing given in a vow of consecration

Question: 8 Shaban 1318H.
Zayd undertook vow of consecration that if his so-and-so problem is resolved, he would slaughter a goat and distribute its meat among poor.

If Zayd's problem is resolved and he slaughters the goat, can Zayd also eat from its meat or not? Reply and be rewarded.

Answer:
Neither Zayd can eat nor his parents, his ascendants, and his children, his discendants can eat it. He cannot give it to a person form the Quraysh lineage or a rich person. The meat is only for poor to whom *zakat* may be given. It is stated in *Rad*, "Thing given for vow of consecration can be given to the person to whom *zakat* can be given." And Allah the Exalted knows better. (13:597)

Chapter on Expiation (*Kaffarah*) for Vow/Oath

Manner of expiation

Question: from Abd al-Rashid Khan (Sironj, Vidisha), 19 Jamadi al-Awla 1331H.
An owner gave a piece of land to his servant as reward for his services. Later, in a state of anger, he vowed that he would forfeit the land and also vowed not to eat at the house of the servant. If the owner violates the oath, would he be liable for expiation or not?

Answer:
The expiation for the oath would be required which would be feeding 10 needy persons with meals of two times, or providing cloth to 10 needy persons with one dress for each person, or give one *sa* of barley or half *sa* of wheat or its price.

If he is not able to undertake any of these things, he should fast for three consecutive days. And Allah the Exalted knows better. (13:507)

Chapter on Scattered Issues

Vow given by another

Question: from Mulla Yaqub Ali Khan (Ujayn), 17 Shaban 1311H.
Zayd sweared to Amr for performing a task. Amr denied to do it. Would the denial result in a vow of Amr or not? Reply and be rewarded.

Answer:
Swearing by another person to him neither amounts to vow undertaken by him nor does it make the performance of the task obligatory. It is reported in a hadith that the Prophet prohibited from giving a swear. It means that it would not be obligatory to perform a task resulting from a swear. However, it is recommended to do that task if there is no harm in doing so, as the jurists have expressed this. And Allah the Exalted knows better. (13:497)

BOOK OF FIXED PENALTIES (*HUDUD*) AND *TAZIR*

BOOK OF FIXED PENALTIES AND *TAZIR*

Chapter on the Meaning and Proof of *Hadd* 239
Honor killing 239
Chapter on the Nature of Intercourse That Gives Rise to *Hadd* 241
Testimony of rape 241
Bestiality 242
Chapter on the *Hadd* for Drinking Wine (*Khamr*) 243
Types of offences and punishments, including that for drinking wine 243
Chapter on Testimony of *Hadd* and its Retraction 245
Difference in testimonies of him and of her 245
Chapter on the *Hadd* of *Qadhf* 247
Meaning of *Qadhf* 247
Chapter on *Tazir* 249
Tazir is to be determined by qadi 249
Chapter on Theft and Robbery (*Sariqah*) 251
Theft of currency note 251

Chapter on the Meaning and Proof of *Hadd*

Honor killing

Question: from Molvi Ahmad Bakhsh (Dera Ghazi Khan), 21 Dhiqaddah 1339H.

Firstly, in this area of mountaineous valley, there are sometimes incidents of killing if a man and a woman are found committing illegal intercourse.

Secondly, in some other situations, they given several warnings to a woman who is found having meetings or travelling with a stranger, and if she does not stop these, they would kill her. They also do not spare the man, where possible.

Is the killer, in the above two situations, has committed an act of sin, or not? Reply and be rewarded.

Summarized Answer:

There is quite complexity in the stated situation and my research into reliable books and arguments according to the Sharia is that the killing of the man and the woman in second situation is prohibited. The Sharia has neither prescribed death penalty for mere meeting and travelling nor do these necessarily result in the privacy. In fact, they cannot be killed for

meeting in privacy according to the Sharia. Punishment for crimes cannot be ordered except by a sultan and even sultan does not have an unrestricted right; this all is clearly described in the Sharia. Hence, this would be undue killing of a Muslim, which is a serious, severe and major sin, and the killer would be subjected to *qisas* (retaliation).

In the first situation, the rule is not unqualified too. It is necessary that they are presurrized, criticized and shown anger first. If they accept, it would be prohibited for the masses to kill them. Yes, if the required four witnesses testify, as required, or the confession according to the Sharia takes place four times in four different sessions, then the one who is *muhsan* would be subjected by the sultan to *rajm* (stoning). And if they do not accept then, although in that situation it would be stopping a bad if the man is killed and also the woman, when she is engaged in the intercourse rather than when she has freed from it, killing need not be from the sultan. However, this matter is between them and Allah, and the ruler would not accept the killings, unless eye witnesses are provided in support, and order death penalty; or if the one killed is commonly known for crimes including adultery, the killer would be liable for *diyah* (blood-money). (13:629)

Chapter on the Nature of Intercourse That Gives Rise to *Hadd*

Testimony of rape

Question: 18 Moharam 1307H
A woman has claimed that Zayd raped her by force. There is no witness to the alleged incident. She says that there was no one in the house except herself and Zayd. Zayd denies having committed the rape and says that he only used harsh words and called her lazy for warning her. The warning was that when the Zayd was going out of house for bringing water for household, he waked her and told to remain alert so that any burgler may not enter and take away anything from the house. Upon Zayd's return, he found her sleeping, kicked her bed and shouted at her that she was sleeping and the household items were at risk of theft, and he called her lazy. On this, she started screaming and blamed him for raping her. Is her claim acceptable in this situation or not? Two men, one Muslim and the other Hindu, say that they heard her voice from the house, "This man is taking away my dignity."

Answer:
The statement of the woman is not reliable at all. In fact, it is mandatory for every Muslim to consider her statement as a lie and a flase accusation and have good perception of the man. Those who consider her as truthful would also committing an act of sin and would be liable to him.

The rule of the Sharia in such a matter is that if she is able to present four reliable Muslim men as witnesses to testify the rape by stating that they, at the specific time and in the specified house, saw that man having intercourse with her through her vagina, like a kohl stick inside the container, then she would be acquitted. If she is unable to produce the witnesses in this manner, she would be flogged with 80 stripes and those who blame the man, believing her statement as truth, each of them would also be flogged 80 stripes. This injunction is stated as such in the Quran.

In this country where *Hadd* according to the Sharia is not implemented, it would be mandatory for Muslims to consider her a liar, false claimant (*kadhdhab*), and one who makes false accusations. The Muslims must ask her to publicly repent and she should confess in public that she had lied. If she does not do so, they must bycott her because she is guilty of committing a major sin.

The testimony of the two witnesses is not beneficial for her. Firstly, there is only one witness, as testimony of a non-Muslim is not acceptable. Secondly, they are not testifying as eye witnesses. Thirdly, they have only described as hearing the voice of the woman, who herself is the plaintiff and statement of a plaintiff is not admissible. Fourthly, taking away dignity (*abru-utarna*) does not necessarily mean rape, and this word is also used for physical torture or intention of physical torture.

In short, the said testimony is defective, her statement is void and he is absolutely free from the blame, and it is established that she made a false accusation and it is mandatory for her to repent from such a major sin. And Allah the Exalted knows better. (13:613)

Bestiality

Question: from Mansab Ali (Alipur), 12 Shaban 1337H.
What is the rule of the Share for a person, minor or adult, who has committed bestiality with a goat or a cow? Is it permissible to eat the meat of or brought up the animal who has suffered this, or not?

Answer:
If that person is a minor, he would be warned. If he is an adult, he would be punished with *tazir*, which is to be administered by the ruler. The animal is to be slaughtered and destroyed and its meat and hide are to be burnt. It must not be brought up. (13:627)

Chapter on the *Hadd* for Drinking Wine (*Khamr*)

Types of offences and punishments, including that for drinking wine

Question: from Molvi Sayyid Azad Yazdani Hasrat Shahjahanpuri (Shahjahanpur), 9 Moharam 1339H.
Would the one who marry any of women who are prohibited forever, like mother, sister etc, and have intercourse with them, be subjected to *Hadd*, or not? This matter is stated on page 466 of volume 1 of *al-Hidayah*, page 175 of the Urdu translation of *Kanz* and page 34 of volume 2 of the Persian translation of *al-Hidayah*.

Answer:
Offences are of three types:

(1) Those offences which are less than worse such that they do not require punishment of *Hadd*, like kissing and hugging a stranger woman. *Hadd* would not be the penalty for these offences as *Hadd* is a higher penalty for such offences. Allah the Exalted is pure from punishing a person with punishment that is higher than the offence committed by that person. Such offences are punishable through *tazir*.

(2) Those offences which are the worst and deserve a punishment for which *Hadd* is not a sufficient punishment; like the offence stated in the question. The offender cannot be subjected to *Hadd* as punishment for these offences either because a punishment is for seeking purity from the sin and such a grave sin is not purified through imposing *Hadd*.

(3) Those offences which are worse and fall in between (1) and (2) above. The persons who commit such offences are subjected to *Hadd*.

An example can be given with refernce to urine and wine. Urine is worse than wine because even a drop of urine was never allowed (to be drunk) according to the Sharia. For this reason, offender is subjected to *Hadd* for (drinking) wine but not for drinking urine. Similarly, unlawful sexual intercourse with a stranger woman attracts the penalty of *Hadd* but that with a woman from prohibited categories does not the penalty of *Hadd*, for the reason that the penalty of *Hadd* cannot sustain such worst sin. And Allah the Exalted knows better. (13:625)

Chapter on Testimony of *Hadd* and its Retraction

Difference in testimonies of him and of her

Question: from Sayyid Zayr Husayn (Sitapur), 22 Shaban 1337H.
A doubt has been raised on part of the husband about his wife of meeting another man before her marriage. The man claims that they have had unlawful intercourse whereas the woman denies. Both of them are Muslims. He has taken oath that the unlawful act was committed by him whereas she says that it did not take place and that he had intention of it and is accusing because he was not successful in doing so. Who should be trusted as both of them have said this on oath?

Answer:
Both of them would be accepted as truthful in respect of their individual claim and untruthful in respect of each other. The woman denies and she is truthful in her denial. Whoever blames her, merely on the statement of the man for unlawful sexual intercourse, would be committing a major sin and would be subjected to 80 whipes.

The man who claims to have committed unlawful sexual intercourse would be considered as having committed it; and had it been a Muslim state

he would have been subjected to the punishment (of *Hadd*), and in present status he should be excluded from the community and Muslim should boycott him until he publicly repents. And Allah the Exalted knows better. (13:620)

Chapter on the *Hadd* of *Qadhf*

Meaning of *Qadhf*

Question: 6 Dhiqaddah 1310H.
If a man blames another man for having unlawful sexual intercourse with his own daughter and the man who is blaming is unable to present an evidence or witness in support of his allegation, would such a blame be permissible or not?

Summarized Answer:
The said blame is absolutely prohibited and is an act of a major sin. The person who is blaming deserves punishment from the Almighty Allah. Allah the Exalted has ordered that such a person be flogged with 80 whipes, his testimony is rejected forever, and he is treated as a *fasiq* (an individual guilty of misconduct).

In this country, he cannot be flogged with the whipes, therefore, the Muslims are required to avoid meeting him, attending his marriage, inviting him to marriages, until he publicly repents and clearly stops from speaking of the worst wordings. It is because he is a transgressor (*zalim*), and the Quran has ordered to avoid sitting with a transgressor.

The said blame cannot be proved by any evidence through witness unless four reliable Muslim men who do not commit any major sin, or insist

on any minor sin or practice acts that are considered bad manners (like eating in market or urinating on roadside) testify by stating that they, at the specific time and in the specified house, saw with their eyes the bodies of the man and the woman just as the kohl stick is inside container. (13:614)

Chapter on *Tazir*

Tazir is to be determined by qadi

Question: from Umrao Bai Bint Ghulam Husayn Hala (Baroda, Gujrat), 16 Rajab 1331H.
A man sent his wife out of home with another woman and a man for some necessary work. Upon her return, he discontinued her maintenance. During proceedings in the court about claim and upon the court asking him the reason for stopping her maintenance, he has replied that she had went out of house without his permission. She has presented witnesses proving that he had ordered her to go out. She claims that he has blamed her and insulted her. What is the punishment in the Sharia for a man who blames his wife? What is the rule for deception? Reply and be rewarded.

Summarized Answer:
False blame, unjustifiable insult and deception are all acts of sin, whether one does it with his own wife or another person. The Sharia has not prescribed *Hadd* (fixed penalty) as punishment for these acts, therefore, these are to be punished through *tazir*, which is the right of ruler according to the Sharia (*hakim-i Shara*) as per his discretion. However, if the ruler orders flogging the accused, it would not exceed 39 whipes. As per the opinion of Imam Abu Yusuf it must not exceed 75 whipes, and fatwa is to

be issued according to his view in this matter. It is stated in *Ashbah*, "The rule for *tazir* is that an offence would be punishable with *tazir* if no fixed penalty (*Hadd*) is prescribed for it;" moreover, "one who tortures another person with words or action is punishable with *tazir*, as stated in *Tatarkhaniyyah*." It is stated in *Dur*, "The extent of punishment through *tazir* is not fixed and it is to be determined by qadi;" moreover, "*tazir* can be a maximum of flogging with 39 whipes." However, this ruling is for accusation other than the accusation of unlawful sexual intercourse. (13:615)

Chapter on Theft and Robbery (*Sariqah*)

Theft of currency note

Question number 4: from Shaykh Abd Allah Abi al-Khair Mirdad (Makkah), Moharam 1324H.
If anyone steals a currency note from a place of its safe custody, would it be obligatory to punish him through amputation of his hand, or not?

Answer:
The offence of the theft of currency note would be punishable through amputation of the hand of the thief if the relevant conditions are met. The following are the conditions. The thief is sane, is an adult, is not dumb, is not blind, the currency note is kept at a place of its safe custoday and other relevant conditions are present, and the value of the item stolen is at least 10 minted dirhams on the day when the theft took place and, on the day, when the hand is amputated. The reason for this ruling is that a currency note is valuable asset in itself. (17:395, 410)

BOOK OF INTERNATIONAL RELATIONS (*SIYAR*)

BOOK OF INTERNATIONAL RELATIONS

Chapter on *Dar al-Islam* (Place of Peace) and *Dar al-Harb* (Place of War)..... 255
An Annoucement of the Giants: On Indian Subcontinent being a *dar al-Islam* 255
Section on Pan-Islamic Matters 256
A Perpetual Luxury: On the Rule that Caliph is from the Quraysh Tribe 256
The Strategy for Success, Deliverance and Correction: On Muslims' recovery 257
Chapter on Relations with Non-Muslims in General..... 263
The Middle Way: On the extent of relations with Non-Muslims 263
A Section on Faith and Kalam: On hidden impurity of not knowing Allah 264
Chapter on Relations with Polytheists and Hindus 265
A Better Thought: Against avoiding sacrifice of cows to appease Hindus 265
The Magnificence of the Light: On Caliphate Committee's relation with Hindus 266
Chapter on Relations with Jews and Chiristians..... 267
Are present Jews and Christians still the People of Books? 267
Chapter on Relations with *Naturis* (Sir Syed Ahmad Khan) 269
The Strongest Arguments: Against the *Naturis*' educational conferences 269
Chapter on Relations with the Rafdis (Shiite)..... 271
A Rebuttal of the Rafdis: Against their inheritance right despite relations 271
A Divine Response to the Enemy: Proofs that our Prophet is the Last Prophet 272
Chapter on Relations with the Wahhabis 275
A Stopper to the Insults: On defending a text attributed to a sufi master 275
Section against Ismail Delhwi and *Ghayr-i Muqallids* (Ahl-i Hadith) 284
The Shinning Meteor: On counting Ismail Delhwi's 70 infidelities 284
The Hanging Swords of India: On the Infidelities of the Wahhabi leaders 285
Section against Ashraf Ali Thanawi on the Insult of the Prophet 285
Another Rock: On his view on naming him in *Kalima* for the Prophet 285
The Final Arguments: The last letter to him to discuss his disputed views 287
Section against Rashid Gangohi and Khalil Ambethwi on *imkan-i kadhb* 288
The Glory of the Perfect: Against the possiblility of falsehood for Allah 288
Annexe to the Garden: An addition to *The Glory of the Perfect* 289
The Clear Defeat: Against the support for falsehood from three books 290
Sec. against Qasim Nanotawi on False Meaning of "the Last Prophet" 290
The Bright One: On the belief that our Prophet is the Last Prophet 290
Chapter against Mirza Ghulam Ahmad Qadiyani 293
The Conviction and Divine Punishment: On the infidelities of Mirza Qadiyani 293
The Anger of the Almighty: On the apostasy of Mirza Qadiyani 294
The Sword of the Almighty: To rebut his sayings against the Prophet Jesus 294
Chapter against False Sufis and Fake Pirs 295
Actions that violate the Sharia 295
Chapter on Miscellaneous Topics 297
The followers of Abdullah Chakralawi (Ahl-i Quran or the Quranists) 297
Baha'i faith and the Babi religion 298
The Brilliant Article: About the One who Denies Jurisprudence is an Infidel 298
The Reasonable Magazine: On becoming apostate by insulting the Prophet 298
The Shinning Electricity: Against one who pronounces infidelity voluntarily 298

Chapter on *Dar al-Islam* (Place of Peace) and *Dar al-Harb* (Place of War)

An Annoucement of the Giants: On Indian Subcontinent being a *dar al-Islam*

Ilam al-Alam ban Hindustan Dar al-Islam (1306)

Question number 1: from Mirza Ali Baig (Badaun), 1298H.
Is India a *dar al-harb* or a *dar al-Islam*?

Summarized Answer:
India is a *dar al-Islam* and is not a *dar al-harb* according to the rules determined by Imam Abu Hanifa, and in fact those determined by Imam Abu Hanifa, Imam Abu Yusuf and Imam Muhammad, all three.

The reason is that one of the three conditions that are required for a *dar al-Islam* to become a *dar al-harb* is that the practices of polytheists are openly prevalent there and the injunctions (*ahkam*) and signs (*shiyar*) of the Sharia are not prevalent there at all. This is a sufficient condition according

to the opinion of Imam Abu Yusuf and Imam Muhammad. However, praise be to Allah, such a condition is not present in India.

The followers of Islam in India are able to openly practice the signs of the Sharia, like offering Friday prayer and prayers of Eids, making calls to prayers and calls for start of prayers, offering congregational prayers etc, without any resistance. Most of the matters of Muslims, like those related to inheritance, marriage, fosterage, divorce, waiting period, recourse to wife, dower, redemption, maintenance, right to custody of child, proof of paternity, gift, charitable trust, bequest, preemption etc are decided according to the Sharia such that obtaining fatwas from ulema and acting according to per those fatwas is also necessary for the English rulers even if the judges (of the courts) themselves are Hindus, Zoroastrian (*majus*) or Christians.

In sum, there is not doubt that India is a *dar al-Islam*. It is strange that some people declare it *dar al-harb* so that *riba* (usury), prohibition of which is proved from the Quran and severe punishments have been announced for people who engage in *riba*, becomes allowed; but they do not proceed with migration from India despite their capacity and affordability. (14:105)

Section on Pan-Islamic Matters

A Perpetual Luxury: On the Rule that Caliph is from the Quraysh Tribe

Dawam al-Aish min al-Ayema min Quraysh (1339)

Question:
Is it obligatory for Muslims (of Indian subcontinent) to support the Ottoman Sultanate? Does the obligation to support also requires the sultan to be from the tribe of Quraysh, or is it a condition only for being a Caliph according to the Sharia, or for none of the two? There are some lines about this matter in the Presedential Address of Molvi (Abd al-Bari) Farangi-mahali. Mister Abul Kalam Azad has stated it from page 32 to page 70 of his booklet *Masla-i Khilafat wa Jazira-i Arab* in a very extended manner in line with his habit. The crux of both of these writings is that the Calipate as per Sharia also does not require the condition that a caliph is to be from the Quraysh Tribe. Is it correct or not? What is the rule of Ahl-i Sunnat in this matter? Reply and be rewarded.

Summarized Answer:
Seeking good for not only the sultanate of Ottoman but also every sultanate of Muslims, not only every sultanate of Muslims but also every group of Muslims, not only every group of Muslims but also every Muslim is

obligatory on every Muslim. The condition of being from the Quraysh Tribe is meaningless in it. Seeking the good by heart is mandatory unconditionally, and help and support through prays is also required at the time of need because no one is unable to do it. The help through wealth and effort is a communal obligation.

However, every obligation would arise in proportion to the ability and every injuction would be applicable according to the capacity. Allah the Exalted states, "Allah does not require effort from anyone beyond the capacity;" and Allah states, "Have fear of Allah to the extent you have capacity." A poor is not required to support through wealth. A handicapped is not required to support through effort. Accordingly, the Muslims of Indian subcontinent are not presently obliged to undertake *Jihad* (to support the Ottoman Sultanate).

An Islamic ruler can even be a person other than one from the Quraysh Tribe or can even be an African slave. In all permissible matters, obeying him would be necessary for all Muslim masses, and supporting him in times of need would be required from all Muslims who are capable in proportion to their respective capacities.

However, according to the rules of Ahl-i Sunnah, the person is required to be from the Quraysh Tribe for being a caliph according to the Sharia. There are numerous hadiths from the Prophet in support of this rule. The Companions of the Prophet, the people after them (*Tabiyin*) and Ahl-i Sunnah have consensus over this. No one has opposed this rule except Kharijites and some Mutazilites. This has been discussed a lot in the books of creed, hadiths and jurisprudence.

A rule who is not from the Quraysh Tribe would be called sultan, imam, *amir*, *wali* and *malik*. However, the term Caliph, or *Amir al-Muminin* which is an alternate customary term, according to the Sharia, cannot be used even for every ruler from the Quraysh Tribe, except for the one who has all seven qualities, that is he is a Caliph of Islam, is a man, is sane, is an adult, is a freeman, is capable, belongs to the Quraysh Tribe, and is a ruler of the Muslims. (14:173)

The Strategy for Success, Deliverance and Correction: On Muslims' recovery

Tadbir-i Falah wa Nijat wa Islah (1331)

Question: from Haji Lal Khan (Calcutta), 19 Rabi al-Awwal 1331H.
I am sending a few issues (copies) of the periodical *al-Mawid* (published from Turkey). What is your advice for Muslims in the present situation? How should the the Ottoman Sultanate be supported?

Answer:
Six issues of *al-Mawid* were received and I have read them. I had wished that these would probably give some good news but, on the contrary, there were sad and bad news. It has been a tragedy that innocent Muslims are ill-treated and the the Ottoman Sultanate cannot support them. But there was news of the newly changed path adopted by Turks which confirmed my thoughts. "No doubt, Allah does not change the condition of a nation until they change it themselves."

I pray Allah, the Most Merciful, to open the eyes of our Muslim brothers because of Allah's merciful and beloved (Prophet), and correct the hearts and condition, forgive mistakes, help them from the Unseen (*Ghayb*), and give decisive dominance to Islam and Muslims. Ameen, my Allah, ameen. And Allah is sufficient for us, and there is no power to avoid sins and do a good deed except from Allah, the Magnificent, the Great.

However, there is not need for hopelessness. "Do not be hopeless from the mercy of Allah; no doubt, no one losses hope from the mercy of Allah except the infidels." Allah, the One, the Dominant, is the Protector and the Caretaker of Islam. He has announced, "I am to help the Muslims," and "You would dominate if you are the righteous."

The Prophet announced, "One groups of my Ummah (the Muslim Nation) would always remain on the correct path, and its opponents and insulters would not be able to harm it so long that the order of Allah comes (it would dominate)."

Here "the order of Allah" is the promise in which the Sultan of Islam would be betrayed and there would be no Islamic State in the world rather Christians would govern the world. If that time has arrived, may Allah protect, there is no solution, and the fate will have to happen. But that condition would last for few days only, adjacent to it, Imam Mehdi would unhide, and the Prophet Isa (peace and blessings of Allah upon him) would come down to the Earth. There would not remain any infidel in the world. Across the Globe, there would be only one nation, the Islamic Nation, and only one school, the Ahl-i Sunnah. Allah knows the Unseen and then, with Allah's blessing, the Prophet knows it, as far as I see, that time has not arrived as yet, Allah will. If I am correct and that time has not arrived, Allah's help would come and infidels would face the defeat.

In any case, there is nothing we can do except pray. May Allah ease the situation and help Muslims, that is, end "the jots already occurred" to the events that have already happened and give the great news of "Listen! Help of Allah is near." Allah is sufficient for us.

You have asked, "What Muslims should do?" How could I answer it when Allah has bought lives and assets of Muslims in consideration of the Heaven? He says, "No doubt, Allah has bought lives and assets of Muslims in return of the Heaven." However, we are not delivering the sold thing and also demanding the price. The Muslims of the Indian subcontinent are not

strong enough to leave their country, wealth, family and relations, and go thousands *kos* (a unit of distance) away to accompany Muslims in the battlefield (in Turkey). They can, however, give material support but everyone knows the reality. Muslims are suffering badly there but Muslims here have same celebrations and colors, same theatre and fund, same entertainment and joy, and same ignorance and wastages.

Nothing has changed here. Recently, a man donated 50,000 dirhams for a worldly good; a woman donated 50,000 dirhams to so-and-so community bench; a rich man donated 150,000 dirhams to a college and three million dirhams have been donated for the university, even a poor city like ours donated 26,000 dirhams for it. In Bombay, a low-class person bought a cottage for 26,000 dirhams just because it was adjacent to his large residential house; I have seen it.

The emotional claims to help Islam are higher than the sky but the actual efforts are lower than the floor. What could be expected then? A big claim is to boycott European products. I do not think that it would be good or beneficial for Muslims because, firstly, it is merely a claim, they would neither have consensus over it nor would they comply with it. In fact, the first ones to break this claim will be these "gentlemen" who cannot live without European products. This is about boycott of the entire Europe, previously one Italy was boycotted. How many followed that (boycott) and for how long? Moreover, how much loss would this boycott cause to Europe? Even if a loss is caused, they have hundreds of methods to cause a loss twice as big. Hence, the intention to harm is an example of a weak inviting for fight. It is better for the Muslims to continue with their safe policy and avoid learning some move of a mischief nation. This would prevent chance of any misconception (of government) which is useless for the Muslims.

Yes, if the Muslims want to improve their condition, apart from these battles, they should have done the following:

Firstly, the Muslims should have controlled their matters themselves, apart from the few matters in which government intervenes, and decide all conflicts themselves. This would save tens of thousands of dirhams wasted on stamp duties (court fees) and legal counsels which has destroyed, and still destroys, Muslims families.

Secondly, the Muslims should have bought everything from Muslims so that profit remained among the Muslims. They should develop business and commerce so that dependence in everything on other nations is avoided. It would have prevented European and American traders from selling them a *chitank* of copper with some workmanship, as watches etc, at the price of a *pao* of silver.

Thirdly, the rich Muslims of Mumbai, Calcutta, Rangon, Madaras, Hyderabad etc should establish banks for their Muslim brothers. The Sharia

has declared *riba* transaction as an absolutely prohibited act but has taught hundreds of methods for earning lawful profit as detailed in books of jurisprudent, and a very easy method has been given in my book *The Seal of a Discerning Jurist* (*Kifl al-Faqih al-Fahim*). They should have used these profitable methods to earn profits and it would also have served the needs of their Muslims brothers and prevented properties from forfeiture by Hindu moneylenders to generally engaged in business. If their properties were forfeited, these would have remained in the possession of Muslims rather than (the prevailing conditions of) Muslims becoming poorer and Hindu moneylenders becoming richer.

Fourthly, the most important, the soul of all, is Islam adhering to which the earlier Muslims reached the great heights and leaving which the later Muslims have fallen. Islam is attached with Islamic Education. Islamic Education and its practice would have made them successful in this world and the Hereafter, and it would have taught them that what they think as progress is a big failure and as respect is severe disrespect.

If the Muslims adopt these four points, God will, their condition would improve quickly. This is the answer to your question, but what is the use of question and answer when no one appears to follow it.

The following are the practices of the Indian Muslims on the above points.

(1) The action on the first point is that an in-house decision is not acceptable to the Muslims when it is even slightly lower than the claim but they like to give even their entire wealth in litigation expenses. Even 2,000 dirhams are wasted in a legal case for a small piece of land. Can you change the situation? "Have you changed?"

(2) The action on the second point is that, on the onset, people from respectable families consider business and commerce as disrespectful. They consider disrespectful jobs, involving deception and prohibited acts, as respectful and earn prohibited income. Where they do engage in commerce, buyers do not have sense to buy from Muslims, even if price is slightly high, considering that the profit is going to a Muslim brother. I have seen European here. They do not buy domestic products even if the quality is same and even where price is lower than imported items. They buy imported items only. The condition of sellers is that Hindus taken profit 1/16 times, Muslim sellers are not willing to sell for lesser than ¼ times. Interestingly, their goods are of lower or even worse in quality than those of the Hindus. Hindus know the business rule that low margin brings higher sales. Muslim sellers want to earn the entire profit from a single buyer. Hence, the buyers are forced to buy from Hindus. Can you quit these habits? "Have you changed?"

(3) The action on the third point is that majority of rich are busy with their unjust luxuries and joy etc. They waste thousand of dihrams on vulgarity and shameful activities, just for fame and status, but they would

mind helping a dying Muslim brother with a small amount. Those who have learned business from Hindu moneylenders why should they focus towards lawful profit? What do they have to do with Islam? Why should they follow the orders of Allah and the Prophet? Circumvention made them Muslim and eating beaf maintained their names as Muslims. What is the need for more than this? Neither they would die nor would they present in the court of Allah and give account of their deeds? "We are for Allah, and we will return to Him." Even when they lend for *riba*, they lend at least for 1.5 or 2 times whereas Hindu moneylender demands ¾ times *riba*. As a result, those who must borrow are trapped and end up losing their properties to the moneylenders.

(4) The action on the fourth point is that they consider education to the extent of passing Intermediate as the security of livelihood. There is condition of age in government job, the condition of passing the exam, the study is one that would never be used in the job or even in life. Initial part of life, which is the age for education, is spent this way then there is issue of passing the exams. They fail in exams even thrice but continue attempting the exams. Luck is that Muslims fail most of the time, and fortunately, if passed, there is no job. If a job is there, it is of great disrespect and gradually if worldly respect is earned, it is the one which is thousand times disrespectful according to the Sharia. When would he spare the time to learn and practice Islamic Education and distinguish good and bad? Resultantly, they take Islam non-seriously and consider their father and forefathers as illiterate, incompetent, unreasonable, fool and nonsense. If we assume it incorrectly as progress, it is tens of million times worse than no progress. Would you leave the blessings of Islam? "Have you changed?"

These are the reasons and causes. Is not seeking cure while maintaining the cause of desease foolish? This situation has caused disrespect to you (Muslims), and allowed other nations to laugh at you. It has done everything (to bring you to this situation). Then there are some blinds who still praise this inverse progress and blame the nation that "we have got rid of Islam and get disrespected independence from it, why others are still following Islam" whereas this so-called independence is the strongest confinement. The recent events with Turks are a clear example of this.

The influencial people should consider these reasons. If my idea is correct, they may hold gatherings in every city and town and get Muslims committed to the above four proposals. After the implementation, if the condition of Muslims does not improve, you may complain.

Do not think that what you, a single person, could do. If every one think like this, no one would act. Everyone should visualize that he is to do it. In this way, all would be able to do it, God will.

To start, implement them at some places, then others would follow the success. With the help of Allah, it would become common too, and then

you would see the blessings? The same verse of the Quran which was written at the start "No doubt, Allah does not change the condition of a nation until it changes itself," that indicates punishment on wrong behavior so does it gives good news on the change towards the correct path. If bad acts are avoided, Allah would replace your disrespect with respect. May Allah open up our eyes and move us on the selected path, as *sadaqah* of the Sun of the Prophets and the Moon of Medina (peace and blessing be upon him, his family and the Companions).

I have explained these issues through out my life. Muslims do not seem to adopt any of these points. But now tell me about the need to help Turks, thousand of sad songs (*marsiyyahs*) were sung, but except for some poor, did rich, wealthy and statemen of our country or heads of Muslims governments around the world take some valuable contribution? Those who could provide military help and hundreds of thousands of *dinars* have been sleeping as if they have not heard anything. Leave them and their strategy aside, how much donation has accumulated on which help of Islam is being claimed? War expenses are not so small. The donation already given is not even sufficient for one day of battle.

Even now if all poor, rich, statesmen, poor or wealthy, give one month's income honestly, the income of 11 months would be sufficient for 12 months without difficulty, and if Allah wants hundreds of thousands of *dinars* could be accumulated.

By affecting poor, three million dirhams have been accumulated for a university on which *riba* is bring earned that has accumulated to 40,000 dirhams and it has not been built as yet. This money has not to be given from own pockets. They can give it in way of Allah. As Islam exists, non-building the university would not be harmful. If Islam doe not, God forbid, exists, what would the university do? And I say it could not be actually built then. Whatever is going to happen to it is a pre-specification. With little heart and miser hands, if other's money could not be given, all the money may be given to the Ottoman Sultanate as *qard-i hasan* in the name of Islam. What else should I say?

Allah is the sufficient for us. There is no power to avoid sins and do good deeds except from Allah. And Allah knows the best, the complete and final. (15:141)

Chapter on Relations with Non-Muslims in General

The Middle Way: On the extent of relations with Non-Muslims

Al-Muhjat al-Mutamina fi Ayat al-Mumtahina (1339)

Question: from Professor Molvi Hakim Ali (Lahore), 14 Safar 1339H. Allah the Exalted has prohibited us from becoming friends (*tawala*) with infidels, Jews and Christians, but Abu al-Kalam Azad has stressed that friendship (*tawala*) means dealing (*muamalat*) and avoiding friendship (*tark-i mawalat*) means non-cooperation (*tark-i muamalat*). His insistance amounts to forced meanings of the words of Allah the Exalted.

He attended the meeting of the Committee of the General Council on 20 October 1920 and insisted that until the grant received by the Islamia College Lahore is not stopped and its affiliation with the university is not ended, and he has issued fatwa to the students that if these do not happen, the students should drop out of the college. Hence, his act has resulted into a chaos in the college and the acedamic session has been badly affected.

His fatwa is incorrect in my view and the affiliation with the university and receiving the grant results in dealing (*muamalat*) and not friendship (*mawalat*) which means love rather than working relation which is the meaning of cooperation. His pressure is destroying the college.

Molvi Mahmud Hasan and Molvi Abd al-Hay are Deobandis and give fatwa according to their needs, therefore, I have given the fatwa that the affiliation with the university and receiving the grant is permissible and have asked that my fatwa may be checked by the experts who are not Deobandis, for example Maulana Ahmad Rida Khan Barelwi.

Summarized Answer:
There is a huge difference between friendship (*mawalat*) and mere dealing (*muamalat*). Wordly dealings that do not affect our religion are not prohibited with anyone except apostates, for example the Wahhabis, Deobandis and like them.

Dhimmis are to be treated like Muslims in dealings. With the non-Muslims other than *Dhimmis*, buy and sale, hiring and being hired are allowed, and buying anything that is valuable for a Muslim, and selling every permissible thing that does not help in war against or insult of Islam, employing him as servant for a work that does not involve any act against the Sharia, being employed by him for a permissible work that does not result in his adverse claim on the Muslim, hiring him or being hired by him in similar matters, giving him gift for a benefit that is allowed by the Sharia and that does not respect any practice of infidelity, accepting gift from him where it does not raise any objection on Islam, accepting a compromise where they offer a truce except where the compromise would result in an allowed thing/act of the Sharia being made a prohibited act or a prohibited being made an allowed act. Similarly, an agreement to an extent or abrogation is allowed, and fufulling a permissible promise with them is necessary and deception is prohibited.

The affiliation and the grant stated in the question neither carry any condition nor tend to oppose Islam or the Sharia, hence, there is no doubt about these being permissible. Otherwise these would be disallowed and prohibited; however, the reason for that impermissibility would be the condition or tendency rather than the dealing itself that has no basis in the Sharia. (14:419)

A Section on Faith and Kalam:
On hidden impurity of not knowing Allah

Bab al-Aqaid wa al-Kalam (1335)

[The translator has translated the summary of this booklet in the Chapter on *Tayammum* in the Book of Purification] (15:529)

Chapter on Relations with Polytheists and Hindus

A Better Thought: Against avoiding sacrifice of cows to appease Hindus

Anfas al-Fikr fi Qurban al-Bakr (1298)

Summarized Question: from (Muradabad), Shawal 1298H.
Is sacrificing cows an act that if not carried out by a Muslim would result in that Muslim ceasing to be a Mulsim? Or if someone believes cow sacrifice as allowed but has not sacrificed a cow or has not eaten beef though he considers it permissible to eat it, would this affect his Islamic faith, or not?

Summarized Answer:
Two points must be kept in mind. (1) The injunctions of the Sharia that are based on custom or practice remain attached to those, these change according to change in cities and countries, and all these are considered the injunctions according to the Sharia. An example of it is women's attending congregation prayer in masjid. As the environment gradually changed, the ulema disallowed it gradually. (2) Obligations and prohibitions according to

the Sharia are of two types: First, those that are inherently obligatory or prohibited, like obligation of worshiping Allah the Exalted, and prohibition of worshping idols. Second, those that are obligatory or prohibited for an externality, like learning Arabic grammar that is required because of its need in learning the Quran and hadith, and understanding of which is attached to Arabic language.

Sacrificing cows is not inherently obligatory and one who skips it has not committed a sin, but this is obligatory for externality and if Muslims are prevented from sacrificing cows, it would be a religious insult of Muslims. The Sharia does not allow us to avoid sacrificing cows to appease Hindus. (14:545)

The Magnificence of the Light: On Caliphate Committee's relation with Hindus

Nabga al-Nur ala Sawalat-i Jabalfur (1339)

Question: from Molvi Abd al-Jabbar (Jabalpur), 20 Shawal 1339H.
A Sunni scholar who considers the government of Turkey a sultanate of Islam and states, in his speeches, that it is lawful and necessary to support the sultanate and every Muslim who is in difficulty and to secure holy places. However, he does not take part in the Caliphate Movement whose struggle involves the unity of the Muslims with the polytheists (Hindus). He exposes the activities of the Caliphate Committee that violate the Sharia, like calling the Ottoman Sultanate a Caliphate, unity with Hindus and making them leaders in the Caliphate Movement. Some scholars oppose him.

Summarized Answer:
In the questioned situation, the said scholar is right and his opponents are deviant and on the wrong path. (1) The condition of ability and capacity while providing support to a sultanate of Islam and security of holy places is stated by the Quran. (2) And the extent of allowed, possible and beneficial support is according to the Sharia. Allah the Exalted states, "Allah does not burden a person beyond the capacity (of that person)," and "Have fear of Allah to the extent possible." The Sharia is free from ordering disallowed, prohibited, impossible, beyond-capacity, unbeneficial and useless acts. (3) His view about the faith of Ahl-i Sunnah on Caliphate is based on the argument that the Prophet informed that caliph is to be from the Quraysh Tribe. (4) Uniting with and praising polytheists is absolutely prohibited, and the sincerity with them by heart is certainly infidelity. (5) Becoming the servant of polytheists and following their instructions is deviation from the correct path. (6) Considering a permissibale as prohibited and a prohibited as permissible is, according to the Hanafi school, infidelity where its permissibility or prohibition is of absolute nature. (14:141)

Chapter on Relations with Jews and Chiristians

Are present Jews and Christians still the People of Books?

Question number 2: from *An Annoucement of the Giants*
Are the Jews and the Christians of the present era the People of Books?

Summarized Answer:
The Christians who believe in the trinity and the son for the God and likewise the Jews who believe that the Prophet Uzayr (peace and blessing of Allah upon him) was God and son of the God are certainly Polytheists.

However, the discussion is in the matter that Allah revealed the holy books and distinguished the injuctions for the Christians and the Jews from those of the polytheists, titled them "the Peoples of Books," and declared the animals slaughtered by them (for eating by the Muslims) and their women (for marrying by Muslims men) as permissible.

Given these, (1) whether the Christians of the present era who openly claim the Prophet Isa as the God and whether the Jews, who like some of their earlier groups, believe the Prophet Uzayr as son of the God may be included in those (the People of Books) and deserve the distinction; or

(2) would the injunctions for the Polytheists apply to them and would animals slaughtered by them and would the marriages with their women be permissible? The statements of earlier jurists related to the two positions are different and a lot of our jurists have supported the second view (of declaring them polytheist) and some have expressly stated that fatwa is to be according to this (second) view.

In short, the (juristic) researchers have also inclined towards the view that the Christians and the Jews are the People of Books and the injunctions for polytheists do not apply to them. However, since there is difference among our jurists on this matter, the careful path would be to avoid the animal slaughtered by them and to avoid (marrying) their women. The reason of this conclusion is that if such Christians and Jews are the People of Books in reality, neither there is any extra benefit in the animals slaughtered by them and in marrying their women nor have these been declared compulsory for us. There is also no need of having them. In fact, even if they are the People of Books, our jurists have advised us that it is to better avoid them.

On the other hand, if they are polytheist because of the referred beliefs, it would be adultery (to have their women) and meat of their slaughtered animal would be absolutely prohibited. In that case, it would not be sane to adopt a path that on one side results in a disliked act and on the other side results in a prohibited act. (14:115)

Chapter on Relations with *Naturis* (Sir Syed Ahmad Khan)

The Strongest Arguments: Against the *Naturis*' educational conferences

Al-Dalail al-Qahirah ala al-Kufra al-Niyashirah (1335)

Question: Haji Qasim Miyan (Gondal, Kathiawar), 12 Moharam 1335H. In Kathiawar Agency, an association namely Kathiawar Muslim Educational Conference has been formed as the educational association for the Muslims of Kathiawar under the lead and authority of the followers and those related to the Aligarh College.

The first convention of the association was held on 2 October 1916 in Junagarh (Kathiawar) wherein Doctor Zia al-Din Ahmad, professor of the Aligarh College was elected as its president, Munshi Ghulam Muhammad, Barister-at-Law the representative of the Aligarh College and the supporter of All-India Muhammadan Educational Conference was elected as secretary, and Molvi Suleman Phulwari (the central leader of Nadwa) was elected as its orator.

The objective of this conference is the same as that of All-India Muhammadan Educational Conference in which any Sunni, Rafdi (Shitte), Wahhabi, *Naturi*, Qadiyani, Chakralawi (Ahl-i Quran) and others may be a member.

Some Muslims are supporting the association through their efforts and money considering it to be beneficial for their wordly and religious objectives and are unaware of the danger and damage it causes… Upon anyone pointing out that an association comprising of members from deviant sects is against the Sharia, they reply that the conference is not a religious one but for worldly development.

What is the injunction of the Sharia for the Sunnis founding such a conference, supporting it through effort and money, attending its gatherting, considering apostates as Muslims, meeting them and expecting any development from all this?

Summarized Answer:

Organizing such a conference is an act of deviance (*gumrahi*) and attending it is prohibited. Meeting deviants is like a fire that is attached to the (Hell) Fire. Muslims believe that no one wants good for us more than Allah the Exalted and the Prophet. The order by Allah and the Prophet to seek an act or thing carries us the benefits of the both worlds and the act and thing prohibited by Allah and the Prophet are dangerous and damaging for us. If anyone whose appearance is that of a Muslim but invites us towards an act or thing prohibited by Allah and the Prophet, you must understand that he or she is a robber and must not hear his or her advice. (15:103)

Chapter on Relations with the Rafdis (Shiite)

A Rebuttal of the Rafdis: Against their inheritance right despite relations

Rad al-Rafdah (1320)

Question: from Hakim Sayyid Muhammad Mehdi (Sitapur), 24 Dhiqaddah 1319H.
A Sunni Sayyid woman has died. Some sons of her paternal uncle are Rafdis, and want to claim inheritance being heirs, although the code of the Rafdis does not include heirship. Can they be entitled to receive the inheritance in this situation? Reply and be rewarded.

Summarized Answer:
In the questioned situation, the Rafdis are not entitled to any inheritance from the late Sunni Sayyid woman, even if they are real brothers or have even a nearer relation with her. This would still be the answer even if their code included the heirship because the lack of their right is for the reason of the difference in their faith and that of the late lady. The research of the

matter is that a Rafdi who commits insult of Hadrat Abu Bakr and Hadrat Umar or any one of them, even if it is to the extent of not acknowledging them as imam and a righteous caliph, is an infidel according to the books of the Hanafi school. And it is apparent that an infidel cannot receive inheritance of a Muslim.

In fact, a Rafdi, a Wahhabi or anyone who recites *kalima* (testimony of having Islamic belief) and claims to follow Islam but who has a belief that results in infidelity, such a person would be the worst infidel than all infidels, that is an apostate, according to the statements of our imams. An apostate cannot be heir of any being at all, and he or she cannot receive the inheritance from any Muslim, any infidel or even from another apostate.

The Rafdis of this era not only insult the Companions (by engaging in *tabarrah*) but also refuse to believe in the fundamental faiths (*zaruriyat-i Din*). Therefore, they are definitely among apostates. So much so that our ulema have expressed that whosoever does not consider them infidel would be infidel himself or herself. Among a lot of their infidelities that result in infidelity, there are two clear infidelities common among all their learned and ignorant individuals, men and women, and minors and adults.

(1) They believe that the Quran is defective. Some of them believe that some *surahs* (chapters) of the Quran were omitted by Hadrat Uthman, some other companions (Allah be pleased with them) or the Ahl-i Sunnah. Some of the Rafdis believe that some words were changed in the Quran. Some of them believe that such omissions and changes are although not proved in real but are possible. And anyone who believes in any addition, defect, change or any human interference in the Quran or consider these possible, he or she would be an apostate for denying the statements fo the Quran itself, according to the consensus of ulema.

(2) All of them believe that Hadrat Ali and other imams (Allah be please with them) as having higher status (*afdal*) than the earlier Prophets (peace and blessings of Allah upon them). And anyone who believes in any person other a Prophet to be as having a higher status than any of the Prophets, is an infidel according to the consensus. (14:249)

A Divine Response to the Enemy: Proofs that our Prophet is the Last Prophet

Jaza Allah Adu-i Baba-i Khatam al-Nabuwat (1316)

Question: from Shaykh Khuda Bakhsh, 19 Rajab 1317H.
Walid who is a resident of Mashad (Iran) claims that he is a Sayyid and believes that calling Hadrat Ali, Hadrat Fatima, Hadrat Imam Hasan and Hadrat Imam Husain the Prophets and Messengers is proved and claims that he has supporting evidence from hadiths. Is a person who has such beliefs is one among the Ahl-i Sunnah or the Rafdis? Can a person be a

Sayyid if he believes that results in infidelity, or not? Is it permissible to call him a Sayyid or not? Reply and be rewarded.

Summarized Answer:
Believing that the Prophet Muhammad is the last of the Prophets and believing it impposible that anyone else may be a Prophet, during the wordly life of the Prophet Muhammad or after that, are mandatory beliefs and part of the Islamic faith. (15:629)

Chapter on Relations with the Wahhabis

A Stopper to the Insults: On defending a text attributed to a sufi master

Hijb al-Awar an Makhdum-i Bihar (1339)

Question: from Muhammad Hanif Khan (Danapur), 8 Shaban 1339H. Ismail (Delhwi) gave example (of noble personalities) with the word *chamaar* (a low caste) in his book. For this, *Ghayr-i Muqallids* Wahhabis of this area claim that Makhdum (Shaykh Sharf al-Din Ahmad Yahya Maneri) sahib has given example with the word 'dropping' (*mengni*) in one of his writings. How should we respond to this allegation? Have you written any booklet (*risala*) or fatwa on this matter, or not?

Answer:
With the name of Allah, the most Beneficent and Merciful. Praise and mercy upon the Prophet.

(1) Associating a book or booklet with the name of a sufi master does not give an absolute evidence of its authorship by him. Numerous booklets

that do not have any real evidence of authorship and are associated to them particularly those in the Chishtiyyah order.

(2) The proof of the authorship of a book by a person does not prove the authorship of its each sentence by him. Books of many senior masters have alterations (*ilhaqat*). This issue has been discussed in detail in the book *al-Yawaqit wa al-Jawahir* by Imam Abd al-Wahhab al-Sharani, especially the writings associated to Hadrat Shaykh-i Akbar (Ibn Arabi), Allah be pleased with them, have uncountable alterations. Explicit and clear infidelities (*kufriyat*) have been added in his writings on which *Dur* has narration from Allama Mufti Abu Saud, "We believe that some Jews have added these words to blame these wordings on the Shaykh."

A book of Hadrat Makhdum sahib himself titled as *Aqaid Tarjuma Umdat-ul Kalam* contains the following wording, "Quraysh was the grandfather of the Prophet, and he had two sons: one named Hashim, and the other named Timim; the Prophet is among the descendants of Hashim and Abu Bakr was from descendants of Timim." Even a very ignorant (*jahil*) person would not say that the name of Hashim's father was Quraysh who had two sons, one Hashim and the other Timim. We cannot accept even this association (*nisbat*) towards Makhdum sahib. It must be an alteration from an ignorant person.

Allah forbid, the insult of the Honor of the Prophet (*Shan-i Risalat*) referred in the question must be an alteration from someone among the Wahhabis.

Imam Hujjat-ul Islam Ghazali, Allah be pleased with him, states in *Ahya-ul Ulum*:

> It is not lawful to associate a major sin towards a Muslim without investigation. However, it is lawful to say that Ibn Maljam assassinated Hadrat Ali, and Abu Lulu assassinated Hadrat Umar, Allah be please with both the companions, because it is proven with *tawatur* (a lot of reports). Therefore, it is unlawful to associate misconduct (*fisq*) or infidelity (*kufr*) towards a Muslim without investigation.

After this, he has cited numerous hadiths to prove that a person calling another person an infidel would become an infidel himself if that other person was not an infidel, and likewise, one associating a misconduct to another person would become guilty of misconduct (*fasiq*) himself if that other person was not so.

Publication does not make a book *mutawatir* (under usage of ulema) because origin of a published book is the manuscript that was found in an almirah and copied for publishing it. Using the content of a book purported to be associated to a sufi master as a certification is one thing whereas using it as the basis for supporting a wording of infidelity and attack on the Honor of the Prophet and trusting it for this purpose is something else.

To ulema, the minimum evidence required was to show that the person copying the text has a continuous (*musalsal*) and connected (*muttasil*) chain

of certification from the author through trusted persons (*saqa*). Khatib Baghdadi, on the line of Abd al-Rahman Salmi, reports from Hadrat Umar, Allah be pleased with him, "When any of you finds a book having a science (*ilm*) and has not heard about it from any of ulema, he should ask for water and sink the book in that water so that its black (ink) and white (paper) get mixed. Imam Zain al-Din Iraqi has stated in *Hadithiyyah*, "Copy of narration by a human is not permitted unless he has connected certificate for it according to the consensus among ulema."

However, if the person copying has a correct (*sahih*) and authentic (*mutamid*) copy which he himself or a trusted person (*saqa*) has compared to the original script of the author, or with a correct and authentic copy that has been compared by him or a trusted person with the original, where intermediate copies are many and all of them are known to be authentic in the similar manner, then it will also be a method of narration (*riwayah*) and it will be lawful to call a sentence of the copy a statement of the author. The same *Hadithiyyah* states:

> They (ulema) say that if a statement is found in a copy, if the authenticity of the copy is trusted, such that the copy was compared by the author himself or a trusted person with the original, or with a copy so compared with the original and so on to the copier, then it would be lawful to claim that the author has stated it in that book; but if it is not so trusted, it will not be lawful (to make the claim).

It is been reported in *Muqaddimah Imam Ibn al-Salah* from Hadrat Urwah Ibn Zubayr, Allah be pleased with him:

> He asked his son, Hisham, "Have you written?"
> The son replied, "Yes."
> He asked, "Have you compared it (with the original)?"
> The son replied, "No."
> He said, "You have not written as yet (*lam taktub*)."

It is also reported from Imam Shafi'i and Yahya Ibn Abi Kaseer that both of them said, "One who has written but not compared is like one who has entered into water but has not performed bathing." It is further stated, "When there is an intention to copy from a book associated with an author, it should not be said that "he says 'so-and-so'" unless the authenticity of the copy is trusted such that he or a trusted person has compared it with many authentic sources." It also states, "Reading a statement in a book associated with a known author and coping it therefrom saying "he said" without confidence about the authenticity of the source copy like if he says "so-and-so said, 'such-and-such' or stated, 'such-and-such', then should not be said;" and in the words stated in *Hadithiyyah*, "And the correct ruling is that it will be unlawful."

Imam Nawawi states in *Taqrib*, "If he has compared with a researched and authentic source, it will also be enough." It means comparison with many authentic sources is an extra care. This connection of the certifications to the original is the thing that can be trusted to associate the author lawfully.

Later ulema have also accepted a book which is so famous and *tadawwal* (under usage of ulema) among ulema which ensures its protection from changes (*taghaiyur*) and alteration (*tehrif*) like the connected certifications and is also the same. It is stated in *Muqaddimah Imam Ibn al-Salah*, "The last decision is that the trust is on the expressions in such authentic and famous writings which, for their popularity, have protection from changes and alterations;" summarized.

It is stated in *Fath*, *Bahr*, *Nahr* and *Minh*:

> Where some other writings (*Nawadir*) (apart from the six books, *Zahir al-Riwaya*) of Imam Abu Hanifa's disciples are found in this era, it will not be permissible to associate the wordings therein to Imam Muhammad and Imam Abu Yusuf because in our areas those writings could not become popular and *tadawwal* (under usage of ulema).

Tadawwal means that the book has, since start till now, been in lessons (*dars*) and teaching (*tadris*) of ulema or in their transmittion (*naqal*) and usage (*tamsak*) or under their watch ensuring that its points and contents have been read by ulema, and they have accepted them as words of the author in the existing condition. Mere existence of a book is not sufficient in the terminology of ulema for the huge difference between existence and *tadawwal*.

Apparently, neither of the above two requirements is met for the claimed wording (associated to Makhdum sahib in the question). Leave aside *tadawwal*, there is even no connected certification. Resultantly, there cannot be *tawatur* which is the requirement for such an association.

As far as the existence of copies of a manuscript is concerned, equitably, presence of many or even numerous and abundant manuscripts is not enough to prove *tawatur* until it is proved that all of them have been individually copied from the author's original or from the manuscripts copied from that original otherwise it will be possible that some altered manuscripts are their source that had alteration (*ilhaq*) and these have been copied or re-copied from such manuscripts making a large number of copies, like the thousands of manuscripts of the existing altered Bible and all Egyptian manuscripts of *Fatuhat-i Makkiyyah* (of Shaykh Ibn Arabi) were copied from altered manuscript, and from them copies were printed in Egypt that are easily available now although it is unsupported by even a single valid chain of narration, leave aside *tawatur*. "And Allah says the correct and shows the way."

Limit on possibility ruled by Ibn Abidin Shami is for clear narrations but in matters like the questioned one, reliance on that is absolutely

prohibited otherwise, Allah forbid, association of great Imams and senior ulema towards infidelity would have to be admitted. I have seen certain wordings found in published books of senior ulema, like Imam Ibn Hajar and Mulla Ali Qari etc, and believe that those wordings are not theirs. A simple example is given here. *Sharh Fiqh-i Akbar* of Ali Qari states on page 47, "Names that Allah decided for Himself and the names for creatures include al-Hay, al-Qayyum, al-Aleem, and al-Qadir." This statement shows that applicability of the name "Qayyum" on creatures is lawful although imams have ruled that, except Allah, calling anyone "Qayyum" is infidelity. It is stated in *Majma al-Anhr*, "One who applies the names specific to Allah, like al-Quddus, al-Qayyum, al-Rahman etc, on creatures is an infidel." Similar ruling is given in other books. Even the same *Sharh Fiqh-i Akbar* states on page 245, "One who calls a creature al-Quddus, al-Qayyum or al-Rahman is an infidel." Given this, how could we accept that the statement on page 47 is of Mulla Ali Qari? It must be an alteration although the book (*Sharh Fiqh-i Akbar*) is famous and popular on an overall basis.

(3) The above-stated position is opposed to the statements of Ismail (Delhwi) that are *mutawatir* from him according to their supporters (Wahhabis) and his opponents (Ahl-i Sunnah). The opponents refute (*rad*) the statements whereas the supporters give justifications. For example, the claimed wording itself has been presented by Ismail's supporters to remove objection on Ismail's using the word *chamar*. During his life, Ismail himself was cross examined in the Jama Masjid of Delhi. The closest and dearest students of Shah Abd al-Aziz Delhwi, like Mufti Rashid al-Din Khan and Shah Musa, had debate (*munazirah*) with him and they accused him. Neither did Ismail (Delhwi) said that those were not his statements nor have his supporters claimed so from that time till today. Therefore, the evidence about his statements is established. The Wahabbis, in the existing form (of Ismail Delhwi's book), believe it like they believe the Quran and consider it basis of their faith. Hence, their refutation needs no evidence.

(4) In such a context, creatures mean only those who do not have any religious status at all. Shaykh Saadi has stated, "For pearls, you must be careful of a frank who considers all men as pickpocket." Only a devil will say that it also applies to, Allah forbids, the Prophets and *Awliya*, peace and blessings upon them. Actually, Allah's creatures have two types:

First type of creatures comprises creatures who have an Islamic status (*azmat-i Dinwi*). The head of whom is the Last Prophet, then other Prophets, Angels, *Awliya*, the Prophets family and companions, then ulema, pious (*suleha*), *atqiyyah*, then sultan of Islam, then ordinary Muslims; furthermore, religious books like the Quran and books of hadiths and jurisprudence; noble attributes like faith (*Iman*) and knowledge (*ilm*); good deeds like prayer (*salah*) and *Hajj*; manners like *zuhd* and *tawadu*; sacred places like the Kaaba

and the Shrine of the Prophet. In short, this type includes all persons and things that have a close association with Allah the Exalted. For of this association, their honor is the honor of Allah. The Prophet said, "No doubt, respect of Allah includes respect of an aged Muslim, a *hafiz* of Quran who does not exceed limits nor falls short, and a just ruler." This hadith has been reported by Hadrat Abu Musa Ashari, Allah be pleased with him. Allah says, "All respect is for Allah," and says, "And respect is for Allah and the Prophet and for Muslims but *munafiqs* are unaware." Had the respect of the Prophet and Muslims been separate from the respect of Allah, there would have been many parts of the respect: one for Allah, second for the Prophet and third for Muslims whereas Allah has stated that "all the respect is for Allah." Therefore, their respect is the respect of Allah and their honor is certainly the honor of Allah the Exalted.

Those who wish a separation between Allah and the Prophet have been declared infidel by the Quran. It quotes a nation's condition, "They wish a separation between Allah and the Prophets;" and then announces, "They are certainly infidels." Believing the respect and honor of Prophets separate from the respect and honor of Allah is separating Allah and the Prophets. "The selected preachers of God are not God, but they are also not separate from God." As a result, their honor is basis of the faith and their minor disrespect is infidelity. One of the noble objectives of deputing the Prophet is his respect and honor. Allah says, "O Messenger! We have sent you as the witness, the provider of good news and the announcer of fear (of Allah) so that O people! You have faith in Allah and the Prophet and pay honor and respect to the Prophet."

Second type of creatures includes those who do not have any status given by Islam so that they do not have any association with Allah. They are distant from Allah. The worst of them are infidels, polytheists and apostates, like Wahhabi-Deobandis and Wahhabi-*Ghayr-i Muqallids*, and then other deviant sects; further evil attributes, like infidelity and deviation (*gumrahi*); evil acts, like committing adultery (*zina*), drinking wine; evil manners, like egotism and *ajab*; evil places, like worship places of infidels. In short, this type includes the world and whatever it has without an association with Allah the Exalted.

The Prophet said, "The world is cursed and whatever it has is cursed except the things it has for Allah." Abu Naim has reported this hadith in *Huliyyah* and Zia in *Mukhtarah* with authentic certificate from Hadrat Jabir Ibn Abd Allah, Allah be pleased with him. And he said, "The world is cursed and whatever it has is cursed except the remembrance of Allah, one associated with Allah, a scholar (*alim*) and a student of Islam." Ibn Majah has reported it from Hadrat Abu Hurayra and Tibrani in *Awsat* from Hadrat Ibn Masud, Allah be pleased with them. He further said, "The world is cursed and whatever it has is cursed except which is to seek pleasure of

Allah." Tibrani has reported it in *Kabir* from Hadrat Abu Darda, Allah be pleased with him. Allah the Exalted says,

> No doubt, those who are enemies of Allah and the Prophet are the most disrespectful. And no doubt, all infidels and polytheists shall forever remain in the Hell fire; they are the worst creatures (worse than *mengni* of camel and dirt of dog and pork). No doubt, those who have belief and do good deeds are better than all creatures (better than the Kaaba, the Tablet and Angels).

When these two types of creatures are known and it becomes clear that the honor of the first type is not separate from the honor of Allah rather it is Allah's honor, then in disrespected context creature, or anyone other than Allah, means one who does not have association with Allah because those associated with Allah are on the side of Allah and not the other side.

For example, ulema say that *tawazo* is prohibited for anyone other than Allah. *Multaqat*, *Dur* and *Hindiyyah* state, "*Tanwazo* for anyone other than Allah is prohibited" although the Quran has the order to have *tawazo* for parents, "For parents, lay humble hand softly," and orders to have *tawazo* for teachers and even students are given in hadiths, "Be kind to those who teach you and those to whom you teach and do not be a stringent *alim*." Khatib has reported this from Hadrat Abu Huraya, Allah be pleased with him. Allah the Exalted has ordered the Prophet to have *tawazo* for his companions, "For Muslims, lay your hand softly," and said, "For your Muslim followers, lay your hand softly." The point is the same. In such situations, "other than Allah" means one who is disassociated with Allah.

As a result, in explanation of the above statement of *Dur*, it is stated in *Rad* that "*tawazo* for one other than Allah means 'to disrespect oneself before another for worldly benefit'." The Prophet said, "Curse (*lanah*) of Allah be upon one who slaughters for anyone other than Allah." Imam Ahmad, Imam Muslim and Imam Nisai have reported it from Hadrat Ali, Allah be pleased with him; although another hadith states, "One who slaughters an animal for his guest, it will cause his release from the Hell." Hakim has reported it in *Tarikh* from Hadrat Jabir, Allah be pleased with him. Therefore, the reason is the same. Kindness to a guest is among good manners, and good manners are a source of the mercy of Allah. Slaughter for a guest is not a slaughter for "other than Allah" but it is "for Allah".

A sufi who disrespects anyone other than Allah and considers him more disrespectful than droping (*mengni*) of camel must be disgracing one whose honor is not the honor of Allah and who is disassociated with Allah. Otherwise if he disrespects those on the side of Allah, it will be disrespect of Allah, and it cannot be an act of a sufi but devil.

Cursed, cursed, cursed is the one who thinks that the Quran and Prophets have been said to be lower in respect than droping of camel in the claimed wording. Would not a person saying so be a contradictor of the

Quran? Would not he be calling name to Allah the Exalted? Would not he be insulting the Sharia and Islam? The Quran, hadiths, the Sharia, Islam and faith are filled with the orders to respect Prophets and declare even a slight contempt of their honor as infidelity. Would not a person who is disrespectful to them be in the Hell? Can a person remain a Muslim if he believes such a cursed person a Muslim? "Rather Allah has cursed them for their infidelity therefore few of them believe."

Hadrat Makhdum sahib is far away from even the doubt of the claimed meaning. But those who extrapolate his statement, if it is really his statement to such worse infidelity are infidels, cursed, apostate and devils. "Suleman has not committed infidelity but surely these devils have become infidels." May Allah punish them where do they rush?

The above is opposed to the case of evil Ismail Delhwi. He used the impure words "*chamar* or a sweeper," "lower than a *chamar*," "mean creatures," and "less than the most worthless particle" explicitly for all Prophets and *Awliya*. He designed four kinds of polytheism (*shirk*) and explicitly stated the Prophets, *Awliya*, and genie and fairies similarly. He has written on page 9 of *Tafwiyat al-Iman* published in 1270H by Matba-i Siddiqui Delhi:

> And invocation in the time of need (is polytheism). In this respect, there is no difference between the Prophets, saints (*Awliya*), genies, fairies or devils, that is whomsoever he does any of these acts, he would be guilty of polytheism whether he asks that from Prophets and *Awliya*, from pirs and martyr, or from devils or fairies].

On page 12, (he has written):

> [one who enageges in]…standing with folding arms…, proceeding to [his] distant shrine…and to cause illumination around it,…[and sets a tent above the grave] and hold the jungle around in respect…he will certainly be guilty of associating them with God [polytheism].

On page 25, (he has written), "To believe, therefore, that the prophets, genie, angels & [bhot]… are vested with such powers, is Shirk;" and on page 51, (he has written):

> Hence, all such animals…whether offered to a prophet or saint,…,devil or fairy, are equally defiled and prohibited, while the scarifier becomes guilty of polytheism.

And like these, there are more such wordings in his book.

Therefore, the statements of Ismail Delhwi are generally for everyone except Allah, and specifically to target Prophets and *Awliya*. In support of the above statements of pages 9 and 12, he wrote five sections. In section one, on page 22, he has written:

> Since God alone is our Creator…it is obligatory on us also to call upon Him in the time of difficulty. What business, then, do we have with

> others? When a person becomes the slave of a king, his sole dependence is on his own master, and not on another king: much less on a chamar, or a sweeper.

On page 16, (he has written):

> Verily, he who gives away God's right to his creatures, is guilty of giving away what belongs to the most Exalted, to the lowest person, as putting the crown of a king on the head of a *chamar* (a lower caste). What greater injustice can there be than such a proceeding? It is certain that every creature, small or great, is lower than a *chamar*, in comparison to the glory of God.

In section three on page 35, he has written, "Why do you call on those who are quite humble and powerless, who can neither favor nor injure you. Verily, it is very unjust to attribute honors, due to God alone, to such mean creatures." In section five on page 74, he said, "All the apostles and prophets in comparison with Allah are less than the most worthless particle".

It is a clear dishonesty to present the claimed wording of Makhdum sahib to certify the above explicitly evil statements of Ismail. Makhdum sahib has said it, if he really has said it, for the world and its things disassociated with Allah which are no doubt disrespectful than droping whereas the deviant Ismail said the "*chamaar* or a sweeper", "lower than a *chamaar*", "mean creatures" and "less than the most worthless atom" for Prophets and the Head of Prophets. "*Zalims* would soon know their end."

The Wahhabis accept none of the above. They, for no avail, claim that he (Makhdum sahib) wrote it, Allah forbid, for Prophets, *Awliya* and the Last Prophet. You should ask the Wahhabis if the statement is right (*haq*) or wrong (*batil*). If they say that it is wrong, you should know that he who uses a wrong statement as evidence is clever and cheater. He will be an infidel if he wants to use it to show disrespect of the Prophets and the Last Prophet, Allah's peace and blessings upon them. If they say that it is correct meaning that, Allah forbid, Prophets and the Head of Prophets are liable to such impure example, their intention will become clear. Every child or an uneducated person, if he is a Muslim and has faith on the honor of the Prophet in his heart, will believe on three points immediately.

First: The ones who are telling the honor of Prophets and *Awliya* to such impure and dirty example are absolutely infidels and enemies of Allah and the Prophet. Has Islam taught such honor for the Prophet Muhammad? "Curse be upon the *zalims*."

Second: It will be clear to him that Hadrat Makhdum sahib has not said such a dirty statement. Neither he nor any other Muslim can state such a word in that context. Hadrat Makhdum sahib has become "Hadrat Makdum sahib" serving slaves of the slaves of the Prophet. Had he said the Prophet so, what would he himself be then? He would have been liable to even

thousand times dirtier example rather than an authority to be used as certification (*sanad*). However, Makhdum sahib has not stated it, and the fact is the same that "Suleman has not committed infidelity but surely these devils have become infidels." Hadrat Makhdum sahib has not committed any infidelity but these devils have certainly committed infidelity.

Third: It will be clear that the dirty statements of Ismail Delhwi are such evil and impure that their justification needs associating such dirty examples and names towards the Prophets, *Awliya* and the Prophet Muhammad. Since these cannot apply to Allah and the Prophet because of their purity and sanctity, the statements apply to the followers of Ismail Delhwi and are a registry for their evil infidelity because it shows the respect of Allah and beloved of Allah in their hearts. May Allah take severe revenge from the Prophet's enemies.

And there is no power and protection except from Allah. And Allah, the Exalted, knows better and his knowledge is complete. (15:555)

Section against Ismail Delhwi and *Ghayr-i Muqallids* (Ahl-i Hadith)

The Shinning Meteor: On counting Ismail Delhwi's 70 infidelities

Al-Kokab al-Shahabiyyah fi Kufriyat-i Abi al-Wahabiyyah (1312)

Question: from Molvi Muhammad Fadal Majid Qadiri Faruqi (Badaun), 22 Jamadil Awwal 1312H.
Ghayr-muqallid Wahhabis who (1) believe *taqlid* (following one of four schools of law) as polytheism (*shirk*), (2) declare a Muslim who follows one of the schools of law as polytheist, (3) state Ismail Delhwi, the author of *Taqwiyat al-Iman*, *Sirat al-Mustaqim*, *Idah al-Haq*, *Yak Rozi* and *Tanwir al-Aynin*, as their faith and leader, (4) consider the statement of Ismail Delhwi as true and correct and believe accordingly, do our jurists and ulema declare them and their leader (Ismail Delhwi) infidels, or not? Reply and be rewarded.

Summarized Answer:
No doubt, infidelity is applicable for a lot of reasons on the said Wahhabis and their stated leader and injuction of infidelity on them is proved according to the writings of our previous ulema and senior muftis. The author counts 70 statements as sample from the books of Ismail Delhwi that result in the injuction of infidelity. However, the author according to careful view does not declare them as infidels. (15:167)

The Hanging Swords of India:
On the Infidelities of the Wahhabi leaders

Sil al-Sayuf al-Hindiyyah ala Kufariyat Baba-i al-Najdiyyah (1312)

Question: from Molvi Muhammad Fadal Majid Qadiri Faruqi (Badaun), 22 Jamadil Awwal 1312H.
Ghayr-muqallid Wahhabis who (1) believe *taqlid* (following one of four schools of law) as polytheism (*shirk*), (2) declare a Muslim who follows one of the schools of law as polytheist, (3) state Ismail Delhwi, the author of *Taqwiyat al-Iman*, *Sirat al-Mustaqim*, *Idah al-Haq*, *Yak Rozi* and *Tanwir al-Aynin*, as their imam and leader, (4) consider the statement of Ismail Delhwi as true and correct and believe accordingly, do our jurists and ulema declare them and their leader (Ismail Delhwi) infidels, or not? Reply and be rewarded.

Summarized Answer:
Before a formal answer, the author states two purposes of this booklet. First, informing the general Muslims that the Wahhabi school is based on such deviant beliefs and its leader are founder and supporters of such deviant beliefs. Second, pointing out to the elders of the Wahhabi school to see who they have made their leader. The author then points out that he has written a detailed book *The Shinning Meteor* (*al-Kokab al-Shahabiyyah*) in reply to this question pointing out to 70 statements as sample from the books of Ismail Delhwi that result in the injuction of infidelity. He then presents names of 50 books which can be seen to confirm the evidences presented by him. In this booklet, the author restricts the booklet to 7 sample statements from the books of of Ismail Delhwi that result in the injuction of infidelity. (15:239)

Section against Ashraf Ali Thanawi on the Insult of the Prophet

Another Rock:
On his view on naming him in *Kalima* for the Prophet

Al-Jabal al-Thanwi ala Kulyat al-Thanawi (1330)

Question:
What is your opinion about the person namely Ashraf Ali (Thanawi)? About him, a person who is devotee of him has written that:

> I recited the *kalima* (testimony of having Islamic belief) in dream but in place of the name of the Prophet Muhammad (peace and blessing of Allah upon him) I recited your name (Ashraf Ali). After this, I realized that this was incorrect. Upon reciting again, I said the words "Ashraf Ali is the Prophet of Allah" instead of "Muhammad is the Prophet of Allah." Upon focusing, I realized that it was incorrect but I am saying it without any control. After repitations, I saw you in front of me, fell on the floor and shouted a lot; and I felt that my hidden strength has ended.
>
> After this, I woke up but I had no sense and strength like before. However, I could recall your image from the sleep and while awake. While awake I realized that I have made a mistake in reciting the *Kalima* so I tried to remove this thought from my heart. I seated and then I laid down on the other side of my body. To compensate for my mistake in recitation the *Kalima*, I started reciting *Durud* on the nobel personality of the Prophet Muhammad but I was still saying "…Allah's *Durud* upon my master, my Prophet and my Lord Ashraf Ali" although this time I was awake rather than asleep or unconscious, but this was in an uncontrolled manner. I had lost the control on my tongue. So much so that this act continued the entire day. I cried a lot the next day. Besides these, due to many other reasons have rendered your devotion to me. How much should I state that?

Ashraf Ali has written in reply to the above, "This incident has the relief for you that one to whom you have approached is a follower of the Sunnah." This entire event has been published by Ashraf Ali in his monthly magazine *al-Imdad* with pleasure and by inviting his *murids* (spiritual disciples) towards excesses in his respect and honor. It is because the objective of the magazine is that it is read by his *murids* on the correct path as instructions for them. What is the injunction of the Sharia about the two persons?

Summarized Answer:

Our imams do not accept slip of tongue in any infidelity otherwise every person who insults Allah and the Prophet would say that his or her tongue has slipped. Lack of his control over his tongue is unacceptable by ulema. His statement and the claim are extremely unreasonable and do not deserve to be heard or considered. He will be subject to the unavoidable injunction of infidelity.

As for the matter that Ashraf Ali's reply is concerned, he praised the infidelity and, no doubt, the praise of infidelity and considering it good is also an infidelity. In fact, the infidelity and lie of Ashraf Ali is severe than that of his devotee. The devotee considered what he was saying as wrong and the worst. However, Ashraf Ali is neither calling the statement of the devotee as bad nor is he condemning the devotee; he is considering the act good and relaxing him. (15:77)

The Final Arguments: The last letter to him to discuss his disputed views

Abhath-i Akhirah (1328)

Invitiation:
[Some Deobandis of Khorja invited the author for oral competition (*munazirah*). The author shared with them this letter that silenced them.]

Summarized Reply:
Letter addressed to Ashraf Ali Thanawi
All praise is for Allah. This humble servant has no personal opposition or worldly prejudice in my heart. My lord, the Prophet has designated me through kindness for this service to inform my Muslim brothers about those who call themselves Muslims but attack the sanctity of Allah the Exalted and the Prophet, peace and blessing of Allah upon him.

Your devotees being inexperienced of your earlier approach or for their simplicity have written that whatever manner I deem appropriate may be adopted for the oral competition with you. I have determined the method of oral competition several times. My previous letter had also stated the same. The following questions require your written and duly stamped answers within three days of receipt of the same. This is the last attempt.

The author then writes down 10 questions to be replied by Ashraf Ali Thanawi. If the timeline of three days looks short to you, you may say so and I am willing to extend the timeline but the reply must be from you and not from a representative. You were given option to appoint a representative for a long time and the result of that is apparent. Are not you an *alim*? Do not you want the clarity on the truth? Do not you own those statements? You should stop seeking support from others and should not ignore the need of clarity on the truth.

The reply is needed from you. You should reply through your pen and letter and with your signature and stamp. Otherwise, you may clearly refuse so that the confusion of public is removed. The right path has become apparent for the wise, it must be clear to your followers too and those of them who are guided by Allah would leave the path of deviance and return to the right path. (15:87)

Section against Rashid Gangohi and Khalil Ambethwi on *imkan-i kadhb*

The Glory of the Perfect: Against the possiblility of falsehood for Allah

Subhan al-Subuh an Kazb Ayeb-i Maqbuh (1307)

Question: from Abu Muhammad Sadiq Ali (Meerut)
Is falsehood for Allah the Exalted possible which is being propagated by ulema of Gangoh and Deoband through writings and speeches, or not? As for the written one, the book *Burahin-i Qatiyyah* has been published by name of Molvi Khalil Ahmad Ambethwi as author and has the title mentioning "With the order of Molvi Rashid Ahmad sahib Gangohi," and also contains his comments (*taqriz*) with the following words:

> This humble among masses, Rashid Ahmad Gangohi has seen this book, *Burahin-i Qatiyyah*, from the start to the end, carefully. In reality, this is a sufficient answer, the last argument and clear evidence for the Author's extensive knowledge, intelligence and understanding. May Allah the Exalted accept this elegant compilation and make it popular among the accepted ones and practice of those who act. Summarized.

This proves that the book is, as if, complied by (Rashid Gangohi) himself. It is stated on page 3 of it:

> The matter of the possibility of falsehood for Allah is not new, rather the earlier ulema disputed as to whether the act (of Allah) may be against the order. It is stated in *Rad al-Muhtar*, "Is the act (of Allah) against the order allowed; the Asharites agreed that it is allowed, as appears from *Mawaqif* and *Maqasid*." Hence, criticizing it means criticizing the earlier *shuyukh*. Being amazed on it merely reflects a lack of knowledge, and the possibility of falsehood (for Allah) is a branch of 'the act against the order.' Summarized.

Molvi Nazir Hasan Deobandi, a senior teacher at Arabic Madarasa in Meerut, announced in a laud voice in Masjid Kot in front of some Muslims:

> We have the belief that Allah has never lied and would never lie, but Allah may lie and may send the people of the Heaven to the Hell and the people of the Hell to the Heaven, and no one else can interfere in this; and this is precisely (the meaning of) the possibility of falsehood (for Allah).

What is the fatwa about this belief? Is prayer valid under the lead of a person who has this belief, or not? State the truth and be rewarded.

Summarized Answer:
The author divides the reply into an introduction, four sections and a conclusion.

In the introduction, the author explains the belief of Muslims that all attributes (*sifat*) of Allah are the great attributes and in a complete manner. Just like disappearance of any of the great attributes is impossible, there is also no possibility of have any defective attribute.

In the first section, the statements of imams and trusted ulema are presented to prove that falsehood for Allah is impossible and believing it as disputed among Sunni imams is enemity, unnecessary insistence and an ill-informed thought.

In the second section, the statements in support of the view of ulema are presented to clarify that there is absolutely no way towards the falsehood for Allah and that the claim of the possibility is void and without any bases.

In the third section, the author criticizes the statements of Ismail Delhwi's booklet *Yak-Rozi* being the basis of the claim of the Wahhabis.

In the fourth section, the author refutes some new thoughts of the Wahhabis on the matter and that the earlier discussions by ulema about the act being against the order has no relation with the claim of the Wahhabis.

In the conclusion, the author states that according to the view of a group of earlier ulema, the persons stated in the question have committed an act of infidelity. (15:311)

Annexe to the Garden:
An addition to *The Glory of the Perfect*

Daman-i Bagh-i Subhan al-Subuh (1307)

Question:
A scholar who studied at Dar al-Ulum Deoband claims that Allah can lie. His argument is that if human can lie and Allah cannot lie, it would be human having more power than Allah because it would be an act human can do and Allah cannot do, and that it is apparent that power of Allah is unlimited, therefore, every act that human can do Allah can also do and Allah has power over unlimited acts for which human has no power; hence it is impossible that human has power to lie and Allah does not have it. He claims that this argument is such a strong argument that it cannot be confronted. We hope that you would inform us about the correct ruling in this regard and protect Muslims from deviance. Reply and be rewarded.

Summarized Answer:
This statement of Deobandis and, in fact, that of their imam Ismail Delhwi is an absolute deviation (from the correct path) comprising of numerous

infidelities. According to the majority of our jurists, the person who believes as such is an infidel. However, we prefer to follow the majority of *mutakalimin* (ulema who are experts in creed) in this matter and do not rule them infidels but deviants. I wrote the thesis *The Glory of the Perfect* on this topic many years ago, and Deobandis and the followers of Rashid Ahmad Gangohi could not respond to it. (15:451)

The Clear Defeat:
Against the support for falsehood from three books

Al-Qama al-Mubin la Amal al-Mukazibin (1329)

Summarized Question: from Muhammad Sadiq Khan (Akbarabad), Shawal 1329H.
The Wahhabis present a citation from the book of Mullah Abd al-Hakim Sialkoti in support of the Wahhabis' belief of the possibility of the falsehood for Allah. How should the Wahhabis be responded on this?

Summarized Answer:
When deviant people read a book in an attempt to find support for their deviance from that book, it would be an example of a pig exploring a garden whereby the pig ignores all the beauties of the garden and puts in effort to find a shit. A deviant person is similar in reading a book wherein he ignores all the valuable points and find an incorrect, void or erroneous statement that he deems to support his view, even if the statement does not help him in reality. The statement cited from the book of Mulla Sialkoti does not support the claim of the Wahhabis. (15:465)

Sec. against Qasim Nanotawi on False Meaning of "the Last Prophet"

The Bright One:
On the belief that our Prophet is the Last Prophet

Al-Mubin Khatam al-Nabiyin (1326)

Summarized Question: from Molvi Nabi Bakhsh (Bihar), 18 Rabi al-Awwal 1326H.
What is the meaning of the words "the Last Prophet"?

Summarized Summary:
It is among the conditions of faith (*zaruriyat-i Din*) to believe unconditionally

and without exception that the Prophet Muhammad is the last of the Prophets. Anyone who denies this or doubt it even slightly is an infidel and apostate. The entire *Ummah* since the earliest ulema believes in this meaning from the verse of the Quran, "but you are the Messenger of Allah and the last of the Prophets," and the *mutawatir* hadith that "there would be no Prophet after me." The Prophet Muhammad is, without exception, the last of the Prophets and it is impossible that anyone is Prophet besides him or becomes Prophet after him until the Day of Judgement.

The *Ummah* has consensus over absence of any twist or exception in the meaning of the verse and the hadith. Any twist or reluctance in its general application is unacceptable, like the devil Mirza Qadiyani has stated "'the last of the Prophets' means the last Prophet with a new law and there would be no harm if any Prophet appears after the Prophet Muhammad on this law of Islam." The Qadiyani intended to announce his prophecy with this. Or like another devil (Qasim Nanotawi) who has stated:

> There is no good in coming earlier or later and taking words of the Quran "the last of" to mean "the last Prophet" is a thinking of ignorants, rather words "the last of the Prophets" mean a Prophet in person.
>
> And Allah the Exalted knows better. (14:331)

Chapter against Mirza Ghulam Ahmad Qadiyani

The Conviction and Divine Punishment: On the infidelities of Mirza Qadiyani

Al-Su wa al-Aqab ala al-Masih al-Kadhab (1320)

Question: from Molvi Abd al-Ghani (Amritsar), 21 Rabi al-Akhir 1320H. A man who was a Muslim got married to a Muslim woman. They lived together and had kids. The man later became disciple of Mirza Qadiyani and denies the necessary beliefs of Islam (*zaruryat-i Din*) after believing in Mirza's infidelities. His wife has moved back to her parents' house. What is the ruling about the marriage with her and his guardianship over the kids?

I have written a fatwa on this. A representative of Nadwa (an association of all deviant sects), Molvi Ghulam Muhammad Hoshiyarpuri has been staying in Amritsar for last two months. I sent him the fatwa for endorsement but he has replied that his endorsement would make the leaders of Nadwa angry.

Summarized Answer:
The author cites 10 instances of infidelities of Mirza Qadiyani before answering the question. For these infidelities, Mirza Qadiyani is certainly an infidel, and whosoever does not declare him infidel, after knowing his infidelities, he or she would also be an infidel.

Nadwa and its members consider mere recitation of the *Kalima* as Islam, believe all deviants as following the right path, think that Allah is equally pleased with all of them, if they hesitate in declaring the Qadiyanis as infidels, they would also be infidels, even if they do not believe in those statements of infidelities themselves because they consider Mirza Qadiyani as an imam, leader and person acceptable in the court of Allah despite his obvious infidelities and clear apostasies, therefore, they are certainly apostates.

Upon a husband committing an infidelity, the woman who was his wife is immediately exonerated from the marriage contract. Her entire dower would also be due on him if the marriage has been consummated, because apostasy does not discharge any debt. Those kids who are minor would be excluded from his custody. However, his rights as guardian of them and their assets would remain suspended. If he reverts to Islam and repents from the bad faith, his rights would be restored. The rights would be vitiated if he dies as apostate or migrates to a *dar al-harb*. (15:571)

The Anger of the Almighty:
On the apostasy of Mirza Qadiyani

Qahr al-Dayan ala Murtad ba Qadiyan (1323)

Summary:
The author counts 68 insulting statements Mirza Qadiyani written by Mirza in his books against the sanctity of Allah the Exalted and Prophets. (15:595)

The Sword of the Almighty:
To rebut his sayings against the Prophet Jesus

Al-Juraz al-Diyani ala al-Murtad al-Qadiyani (1340)

Summarized Question: from Shahmir Khan (Pilibhit), 3 Moharam 1340. Is the Prophet Jesus alive or has passed away?

Summarized Answer:
The author has explained that this issue has varied views of ulema, has been raised by Qadiyanis to divert attention from the infidelties committed by Mirza Qadiyani, and cannot be helpful for them. (15:611)

Chapter against False Sufis and Fake Pirs

Actions that violate the Sharia

Question: from Muhammad Abd al-Hamid (Patra), 19 Rajab 1334H.
Some disciples call their pir as god with the intention that if the pir does not guide how would they achieve the nearness to Allah. Most of them prostrate the pir. Are their such acts allowed or not?

Answer:
One who calls his pir as god has become an infidel by this very act, and if the pir likes such act of his disciples, the pir would also become infidel. Kissing the feet of a righteous pir is a sunnah whereas the prostration is not allowed according to the Sharia. (14:611)

Chapter on Miscellaneous Topics

The followers of Abdullah Chakralawi (Ahl-i Quran or the Quranists)

Question: from Muhammad Yasin (Badaun), 11 Dhiqaddah 1335H.
A molvi has said that whoever offers a sunnah prayer would be a polytheist and there is no evidence of reciting *al-Tahiyat* and *Durud* in prayer and demands evidence from the Quran. He further says that funeral prayers should not be offered since there is no mention of it in the Quran and the Hadith is not a reliable source (of Islamic Law). Reply and be rewarded.

Answer:
A person who denies the Hadith (as source of law) is denying the Prophet Muhammad, peace and blessings of Allah upon him. One who denies the Prophet is denying the Quran. One who denies the Quran is denying Allah the Exalted. One who denies Allah is certainly apostate and infidel and has no right to discuss issues of the Sharia.

The instructions for sunnah prayer, *al-Tahiyat*, *Durud* and funeral prayers are given in the Quran. However, the person denying the Hadith as source of law should first tell us the instructions in the Quran about five daily prayers, two *rakahs* of morning prayer, three *rakahs* of evening prayer,

the sequence of steps in prayer, the start and end times in which regular prayers are required to be offered, acts that render ablution defective, acts that render bath defective, acts that render a prayer as vitiated…. (14:312)

Baha'i faith and the Babi religion

Question: from Habib Allah (Bengal), 15 Shawal 1334H.
Baha Allah has invented a sect that calls the Quran as cancelled. He also says that as the Torah, the Gospel (Bible) and the Zabur stand cancelled so does the Quran stand cancelled. If the Quran has not been cancelled, why the punishment of *Hadd* is not announced for offences of adultery, theft and drinking vine?

A man belonging to the sect of Baha Allah is titled as Mazhar Allah. He claims that the God has revealed a holy book on me and that is applicable in this era. He calls the Hadith as news and does not believe in it. He denies the four imams. Is this sect Muslim or not?

Answer:
The group that has such beliefs is infidel, apostate and devil such that any person who consider this group Muslim, or even have a doubt about its infidelity, would be infidel or apostate himself or herself. It is stated in *Bazzaziyyah*, *Majma al-Anhar*, *Dur* and other legal texts, "One who doubts their divine punishment and infidelity, would also be an infidel." (14:615)

[The introduction to relevant volume of the original text mentions the following three books name and biographies also contain similar reference. However, the translator is unable to find this book so far.]

The Brilliant Article:
About the One who Denies Jurisprudence is an Infidel

Al-Maqal al-Bahir fi Munkir al-Fiqah Kafir

The Reasonable Magazine:
On becoming apostate by insulting the Prophet

Al-Majal al-Misdad an Sab al-Mustafa Murtad

The Shinning Electricity:
Against one who pronounces infidelity voluntarily

Al-Baraqa al-Lamaa ala Saad min Nutaq bil Kufar Toaa

BOOK OF FOUND PROPERTY (*LUQTAH*)

BOOK OF FOUND PROPERTY

Chapter on Claims on Found Property 301
Auction of found animals by the government 301

Chapter on Claims on Found Property

Auction of found animals by the government

Question: from Sayyid Basharat Ali (Agra), 2 Dhilhajjah 1337H.
Recently, government has established animal houses in cities, towns and villages for admitting ownerless cows, ox, goats etc. The animals are admitted to the animal houses for a maximum of 15 days so that the owners may claim their animals by paying penalty and food expenses. If the owner does not claim within 15 days, the animal would be auctioned by the incharge of the district. Would such a sale (by auction) be permissible or not? Would the sacrifice of a cow or ox bought from the auction be permissible or not? Where a person Hindu or Muslim buys an animal from the auction and another person buys it from the buyer for sacrifice, would it be permissible to do so sacrifice it if the second buyer knows that the first buyer has bought the animal from the auction? Zayd and Amar are both scholars (*molvi*) and declare the sacrifice of such an animal permissible. Bakr, another scholar, says that the animal is a found property and, therefore, the sacrifice of such an animal would not be permissible. Reply and be rewarded.

Answer:
Where a thing is sold without information of its owner, its sale remains suspended till the permission of the owner. If 100 sales of the thing take

place before the permission of the owner, all of such sales would remain suspended till the permission of the owner and any of the buyers would neither become owner of the thing before the permission nor any usage of the thing would be permissible. Sacrifice of an animal so bought would also be not allowed.

The injunction of the Sharia for found property is publicity and (if owner is not found) then giving it away to a poor as charity, rather than sale of the found property. Yes, if the owner gives the permission after becoming aware, the sale would become effective where the seller, the buyer and the thing are intact. It is stated in *Khaniyyah*, *Hindiyyah* and other legal texts, "Where a person sells a thing of another person, the sale would remain suspended till the permission of the owner, and the validity of the permission would depend on the parties and the thing remaining intact." (17:209)

BOOK OF MISSING PERSON (*MAFQUD*)

BOOK OF MISSING PERSON

Chapter on the Wife of the Missing Person 305
Husband who is lost for last 45 years 305
The Knotted Banner: On injunctions for the wife of a lost man 306

Chapter on the Wife of the Missing Person

Husband who is lost for last 45 years

Question: from Abu Yusuf Muhammad Sharif (Sialkot), 7 Dhilhajjah 1339H. Zayd who was 10 or 15 was employed and went to another place after marriage. The search for him continued for 20 to 25 years, but he was not traced. After 25 years, her wife who was in difficulty for living expeses obtained a fatwa and got married to another man who is a scholar. She has three kids from the second husband who she married 20 years ago. Zayd was lost 45 years ago.

A Hanafi mufti has now ruled that the second marriage with the scholar was disallowed and that a congregational prayer led by him is not valid. Another mufti rules the second marriage as valid and declare the following of Maliki school in this matter is allowed as per the need. What is your ruling on the following: (1) Can the marriage of the scholar be valid in any case? (2) Can a follower of Hanafi school follow another school in any matter?

Answer:

In all schools of law, it is mandatory to wait for lost husband so long his death can be expected as per normal span of life. Its expected duration in

view of a valid hadith is that 70 years pass since the lost husband was born.

Imam Malik also rules like this in case of a lost asset, but he differs in case of a lost husband. However, his view is not the one being followed by some ignorant people today whereby she can marry another man if four years have passed since his husband was lost. The opinion of Imam Malik is that the wife of the lost person lodges the matter with the judge (*qadi*) and the judge, after investigation, announces a period of four years from the date of lodging. She would endure this period of four years and then approach the judge again who would order the sepration after an investigation. She would then pass the waiting period before marrying. Imam Malik himself has expressed this in his book and clearly stated that even if 20 years have passed before lodging of the matter before the judge, those 20 years would not be counted and the period of four years would start from the date of lodging.

A follower of Hanafi school may follow this if it is established that there is a valid need, but he is not allowed to act on an incorrectly presumed method being called as as per the school of Imam Malik, which is not actually as per the school of Imam Malik.

An example of this would be where, as per Hanafi school, the wife of an impotent man lodges case before the judge who gives one-year time, after investigation. Where one year passes and the issue is not solved, she would again approach the judge who, after investigation, would ask the husband to pronounce the divorce. If the husband refuses, the judge would ask her if she wants to live with him or separate. If she immediately opts for separate, the judge would order the separation, and she would pass the waiting period before marrying another man. Even if 20 years have passed before the time allowed by judge, those years would not be considered and the period of one year would start from today. Would she be considered to have acted as per Hanafi school if she leaves his impotent husband and marries another man on her own after one year of marriage? No.

The research of all these matters is given in the collection of my fatwas and my book *The Knotted Banner* (*al-Lulua al-Maqud*). And Allah the Exalted knows better. (13:347)

The Knotted Banner: On injunctions for the wife of a lost man

Al-Lulua al-Maqud li Bayan Hukm-i Amrat al-Mafqud

[Page 348 of volume 13 of the original text mentions this book's name. However, the translator is unable to find this book so far.]

BOOK OF PARTNERSHIP (*SHARIKAH*)

BOOK OF PARTNERSHIP

Chapter on Co-ownership 309
Where their respective heaps of jute are mixed 309
Chapter on Contract Partnerhip 311
Where two brothers own and run a shop jointly 311

Chapter on Co-ownership

Where their respective heaps of jute are mixed

Question: 16 Jamad al-Akhir 1338H
There is a practice in our area whereby heaps of jute are kept in water separately. In the month *kuvaar* (mid September) this year, heaps owned by all the people were aggregated because of severe storm and rain. Later, most of them did not took back. Some of them took this in their custody and got it ready through management.

Now the people who managed it are asking the those other who left their jute to take their share, but those other say that they cannot take it since their jute is not identifiable. What should the people who managed it do? Should they use the others' share for themselves or distribute it among poor and needy? If they are allowed to use for themselves, would there be any difference where some of them are rich and some are poor?

Answer:
If those other people do not want to take away their share, the persons having custody may take their share and distribute the rest among poor. If any of them is poor, he may also be given that. And Allah the Exalted knows better. (16:89)

Chapter on Contract Partnerhip

Where two brothers own and run a shop jointly

Question: from (Nainital Hill Station), 12 Jamadil Awwal 1308H.
Mahmud Baig and Abd al-Ghafur Baig were two brothers having a joint shop at the Nainital Hill Station. Both of them inherited the wealth and shop inventory from their father, both of them work together and their livelihood is also managed together. There is not separation in any matter.

Mahmud Baig went for *Hajj* with his mother Wilayti Begum by withdrawing 600 dirhams from income of the shop, leaving the entire stock in the custody of Abd al-Ghafur Baig. After they arrived back, Abd al-Ghafur Baig also withdrew 300 dirhams from it and departed for *Hajj*, leaving his wife Umrao Begum and one-month old son Abd al-Shakur with his brother and mother. He got sick in transit at Ahmadabad. Upon this, he deposited his baggage and money in police station and sent a telegram to Mahmud Baig. Mahmud Baig immediately departed for Ahmadabad. Upon reaching there, he came to know that Abd al-Ghafur had died. Mahmud Baig brought back the baggage and money to home.

What is the ruling about that money? Would it be given to Mahmud Baig only or the heirs of Abd al-Ghafur Baig be entitled to a part of it too? Reply and be rewarded.

Summarized Answer:
If the 300 dirhams were from the income of that joint shop in which both of the brothers were equal partners, the money would also be in their ownership on equal basis. The person questioning has expressed that Abd al-Ghafur had taken it with permission of his brother, whether as loan, gift or allowed take away. In any case, the entire money or remaining part of it, as the case may be, brought back by Mahmud Baing from Ahmadabad, the half of it is right of Mahmud Baig and the other half is of Abd al-Ghafur Baig distributable to his heirs.

In any case, Mahmud has right equal to half of the remaining money. For the amount spent, if any, by Abd al-Ghafur, if he had taken the money as loan or gift, Mahmud would be entitled to receive half of that too. And if Abd al-Ghafur had taken as allowed take away, adjustment of which was neither intended nor Abd al-Ghafur was made owner of that, then Mahmud would not be entitled to receive anything against the amoung spent by Abd al-Ghafur. (16:89)

BOOK OF *WAQF* (CHARITABLE TRUST)

BOOK OF WAQF

Chapter on the Nature and Property of the *Waqf* 315
Alteration in a *waqf* 315
Chapter on Allocating the Revenue of a *Waqf* 317
Property bought with money of a *waqf* is not part of the *waqf* 317
A Movement at the Height: On definition and ruling for *khulu* of a *waqf* 318
Chapter on the Masjid as a *Waqf* 319
A Good Note: On the rights of a masjid 319
Exposing the Mistake: On the analysis of the incident of Kanpur Masjid 320
Chapter on Inns, Drinking Facilities and Other Property 321
Waqf of a pond for public use 321
Chapter on Scattered Issues 323
Unused part of donations for charitable cause 323

Chapter on the Nature and Property of the *Waqf*

Alteration in a *waqf*

Question: from Abd Allah care of Molvi Amir Hasan (Bihar), 21 Dhilhajjah 1327H.

13 years before her death, Hinda created a *waqf* of her property through a written statement witnessed by certain gentlemen of the city and registered it in a court. After 13 years, during the terminal desease, she wrote another statement in contradiction of the first statement. She died in next few hours. Since she a Sunni Hanafi Muslim, please reply the following questions with reference to authentic and popular legal texts of the Hanafi school of law with correct and *mufta-ba* view (a view usable for issuing fatwa on a matter). (1) Did she have the right to alter and change conditions of the first statement, or not? (2) What is the ruling about *waqf* during terminal desease? (3) Is the second statement valid or void? Reply and be rewarded.

Summarized Answer:

The Sharia has given right to the person creating a *waqf* to include normal (excluding related to *tawliyat*) and valid conditions only at the time of making the *waqf*. For example, including anything in it, excluding anything from it,

the extent of expense, restricting to a time, situation, characterstic, determine the sequence. This is optional until *waqf* is not created. Upon creation of *waqf*, all such conditions become mandatory like the *waqf*. Just like he or she cannot revert or alter the *waqf*, similarly he or she cannot reverse any condition, alter it or make an increase or decrease in it. However, if there was a condition of right to alter all or any particular conditions, then he or she may alter those conditions only, and once. After changing once, he or she cannot do it again unless right of further change is also stated at the time of creating the *waqf*. Therefore, the person creating a *waqf* himself or herself must follow the conditions he stated orally or in writing at the time of creating the *waqf* and cannot modify these.

From the above, the answer to questions (1) and (3) is clear. Hinda had no right to change the mandatory conditions. The second statement to the extent of altering the conditions (of first statement) would be useless because the *waqf* property is already excluded from her ownership, the mandatory conditions have become binding, and the new statement about these is like a statement by a stranger.

Question (2) is not related to change in *waqf*. A *waqf* created during terminal desease, like a will (*wasiyah*), would apply only to one-third of the wealth of the deceased if it is without the permission of the heirs, as stated in *Tanwir* and other legal books. And Allah the Exalted knows better. (16:139)

Chapter on Allocating the Revenue of a *Waqf*

Property bought with money of a *waqf* is not part of the *waqf*

Question: from Haji Muhammad Azam (Randir, Surat), 16 Shaban 1334H. Would a property bought from income of a masjid also be included in *waqf* or not? If it is part of *waqf*, would the permission of government be required for selling it because the buyer does not know that it is bought from the income of a *waqf* property, so that with the permission of the government both the buyer and the seller are satisfied and there is no possibility of cheating or wasting?

Answer:
The property bought by custodian of a *waqf* from the money of the *waqf* is not part of the *waqf* and the sale of it is permissible. This issue has been stated in legal texts. The channel of sale must be reasonabliy safe to avoid any interference. There is no qadi (appointed judge as per the Sharia) here, the Muslims of the locality and ulema should oversee it. It is stated in *Dur*, "If the custodian bought a house from the money of the *waqf*, the house would not be part of the *waqf* property as per correct ruling and sale of it would be permissible." And Allah the Exalted knows better. (16:117)

A Movement at the Height:
On definition and ruling for *khulu* of a *waqf*

Jawal al-Ulu li Tabaiyan al-Khulu (1336)

Summarized Question: from Wajid al-Hasan (District Sitapur), 20 Dhilhajjah 1336H.
Is it permissible to give a person a part of *waqf* properties under *khulu*, as discussed in the Book of Sales (*Buyu*) under discussion of *Khulu al-Hiwaniyat* in volume 4 of *Rad*, by taking money in advance on the condition that the tenant would adjust the customary annual rent against the advance payment?

Summarized Answer:
Khulu itself is void and without basis. In the Hanafi school and, in fact, in all the four schools, there is no mention of it for 900 years. In the tenth century of Hijra, one Maliki jurist namely Imam Nasir al-Din Laqani stated it as allowed. In the later half of the same century, the Hanafi author of *Ashbah* declared it based on specific custom against the principles of the Hanafi school whereas, in the same century and later on, Hanafi jurists like Ali Maqdasi, Hasan Sharanbulali, Muhammad Effendi Zirakzada, Khaiyr al-Din Ramali, Sayyid Ahmad Hamawi and others refutted it.

The questioned situation is also not related to *khulu*. *Khulu* is an addition by tenant of a house, shop or land for keeping his rental contract (*ijara*) infinitely, not for himself but for adding or enhancing the value of the rented property, whether annexed to it or not. Example of this would be adding building, water tubewell, lighting items, water taps and similar items. He does it by himself or pays for it, in excess of rent, to the person who rented the property to him. The right of infinite rental contract he receives as the consideration for the addition is called *khulu*.

Even if it is a *khulu* of *waqf* property, the condition would be that the custodian makes the contract himself and no other person can do it. It is required that the money is spent for a valid benefit of the *waqf* rather than for the benefit of a person. It is also required that the *waqf* needs that money; if the *waqf* can afford the benefit on its own, the *khulu* would be void.

It is clear that, in the questioned situation, the money has not been taken for a need of the *waqf*, it is also not spent on *waqf*, rather it has been spent on personal need of a person although he is also the custodian, the money received is also not for obtaining the infinite right of rental contract, the rent is also part of it and not separate and would be adjusted in it. Therefore, it is not *khulu* in any way. In fact, it is a loan which has been taken by the receiver of money by pledging the *waqf* property and allowed the prohibited gain to the lender whereas pledge of any *waqf* property is itself void. Therefore, such an arrangement is not permissible. (16:175)

Chapter on the Masjid as a *Waqf*

A Good Note:
On the rights of a masjid

Al-Tahrir al-Jayyad fi Haq al-Masjid (1315)

Question: from Molvi Abd al-Salam (Bengal), 21 Dhilhajjah 1315H.
Is it permissible to sell the assets of a masjid, or not?

Summarized Answer:
Assets of a masjid are parts of it, equipments or *waqf* property or additional items. Sale of land and building of a masjid is not permissible in any case unless, Allah forbid, the masjid becomes completely deserted and there remains no possibility of its rehabilitation then, on one juristic opinion, with the permission of a Sharia-approved *qadi*, its assets may be sold and proceeds may be used in another masjid. This juristic opinion can be used in a situation where there is a need as per the Sharia.

However, Allah forbid, if some part of the foundation of a masjid collapses or becomes so weak that it requires demolition and reconstruction, in this situation, the bricks, pieces etc that are left in excess after completion of the reconstruction and there is fear of wastage if these are kept for use of the building in the future then, if these two conditions

are met, there would be no harm in sell of these, but the permission of the *qadi* would be required. Moreover, the sale proceeds would be saved for usage of the building only.

If the fixtures and equipments of a masjid, like carpets, flooring, lights etc are complete and usable and the masjid needs these, the sale of these is not permissible. However, if these are not usable or of deserted masjid then the custodian can sell these with the permission of the *qadi*, as stated. (16:261)

Exposing the Mistake: On the analysis of the incident of Kanpur Masjid

Abanat al-Matwari fi Masalihat-i Abd al-Bari (1331)

Summarized Question: from Molvi Salamat Allah (Farangi Mahal, Lucknow), 30 Dhiqaddah 1331H.
Municipal government demolished part of a masjid in Machli Bazaar in Kanpur city on the pretext that its trustees had given it to the municipality. Upon some Muslims' effort to reconstruct masjid on it, the government action resulted in death and arrest of many Muslims. A compromise took place between the Muslims and the government wherein Maulana Abd al-Bari, an old acquaintance of the author, played a leading role. It resulted in government allowing a shade over the demolished part of the masjid but no possession of the land was given to Muslims for the masjid.

Summarized Answer:
Any piece of land of a masjid cannot be allowed to be used for freeway, road, railway, canal etc. Masjid is the name of the land and a shade (over a land) cannot be replacement of it. It is also not allowed to accept any other land, no matter how valuable, as replacement of a land of masjid. The author has also written down in details about mishandling of the matter and asked Maulana Abd al-Bari and Muslims to ensure few actions. (16:365)

Chapter on Inns, Drinking Facilities and Other Property

Waqf of a pond for public use

Question: from Ahmad Hasan (Bengal), 25 Rabi al-Awwal 1334H.
A man had a pond constructed for public benefit and gave it in *waqf*. During his lifetime, public visited it for fishing on specified days and always used it for bathing. The practice continued after his death. After some years, a person who is not among his heir took its custody for his personal use. Others cannot use it now. What is the ruling in this regard? Is his custody valid or not? What should be done?

Answer:
As per the situation described in the question, the custody is void. Fishing and bathing for entertainment is not related to a *waqf*. Hence, making the pond a *waqf* is questionable, as against the pond in a masjid that is *waqf* for ablution. Apparently, the questioned pond is in the ownerhip of the heirs of the owner as it should be. And Allah the Exalted knows better. (16:117)

Chapter on Scattered Issues

Unused part of donations for charitable cause

Question: from Molvi Muhammad Ibrahim (Banaras), 4 Jamadil Akhir 1321H.
There is practice in our area to collect donations in the month of Rabi al-Awwal from public for cooking meals and distribution among poor on the occation of *Mawlid* (the Prophet's birthday). Some donation has remained unused and the organizers are of the view that a cauldron (*deg*, a pot to cook large quantity of meal) be bought from this money. The reason is that it is needed for cooking meals annually on 12th Rabi al-Awwal and is obtained on rent with much effort. If it is bought, it would be a convenience every year. It is also a proposal that it may be rented out to the people who need it and the rental income would be utilized for students of the madarasa. However, the organizers have different views. Accordingly, the ulema are questioned to inform if this is permissible or not? Reply and be rewarded.

Answer:
The money remaining from such donations belong to the donors. They must be consulted and their decision to buy the cauldron or something else must be followed. The heirs of the donors who have died would be consulted. If any of the heirs are minor or insane, the permission of others

would be to the extent of their share and the share of the minor or insance would have to be returned. If the heirs are unknown, the money would be used only for the purpose it was given, and if that is not possible, it would be given to poor. Hence, it would not be permissible to buy the cauldron without the permission of the donors. (16:134)

BOOK OF SALES (*BUYU*)

BOOK OF SALES

Chapter on the Formation of the Contract of Sales 327
Effect of custom (*urf*) on offer and acceptance 327
Chapter on Options 329
Definition of a stipulated option 329
Chapter on the Unenforceable Sale (*al-Bay al-Fasid*) 331
Including a vitiating clause in a sale agreement 331
Chapter on Void Sale (*al-Bay al-Batil*) 333
Definition of void and invalid sales 333
Chapter on Disapproved Commercial Activity (*Bay al-Makruh*) 335
Hoarding grains 335
Chapter on Sale by Unauthorized Agent (*Fuduli*) 337
Sale of wife's assets without her permission 337
Chapter on Revocation of Sale (*Iqalah*) 339
Revocation or cancellation of sale of a property 339
Chapter on *Murabahah* and *Tawliyah* Sales 341
Murabahah of currency notes 341
Chapter on Sale Before Taking Possession 345
Buying sugarcane produce before the crop 345
Chapter on Using Goods Sold and Price 347
Waiver of the price would not convert a sale into a gift 347
Chapter on Loan 349
Loan taken for employer 349
Chapter on Prohibition of *Riba* 351
Hadiths condemning *riba* 351
Chapter on Sale of Pure Rights and Easements 353
Marine, fire and life insurance 353
Chapter on Third-Party Rights (*Istihqaq*) 355
Buyer of a property that was received as dower 355
Chapter on *Salam* (Advance-Payment Sale) 357
Conditions applicable to *salam* 357
Chapter on *Istisna* (Goods Made to Order) 359
Buying made-to-order chairs 359
Chapter on Faking a Sale (*Bay al-Taljiyah*) 361
Sale in form rather than substance 361
Chapter on Pledge Resembling a Sale (*Bay al-Wafa*) 363
Gain to the lender from pledged property 363
Chapter on Scattered Issues 365
Pyramid, ponzi and multi-level marketing scheme 365

Chapter on the Formation of the Contract of Sales

Effect of custom (*urf*) on offer and acceptance

Question:
Zayd says, "I sell my house." Amar says, "I will buy." Both of them agreed and the price was decided. Zayd even received the token money and has bought paper for executing sale agreement. Is the sale complete according to Sharia in this situation, or not? Reply and be rewarded.

Answer:
Although in the questioned situation words of offer and acceptance are not found because "will buy" is a future tense whereas a past or present tense was required. However, if the custom in those cities and countries is such that payment and receipt of token money after the said oral words and deciding the price is attached to execution of sale, and no party can revoke the contract unilaterally after that even if words of offer and acceptance are not involved, then the sale has completed because the objective in these contracts is the meaning rather than the words.

Actual base is the mutual consent whether expressed by words or implied by action. for this reason, mutual surrender (*ta'ati*) renders the sale

biding like offer and acceptance, which means parties do not say anything because habit is binding and custom is established, and ruling which is based on a custom is attached to it. Where this action, or words, reflects mutual consent, it would likewise render the sale complete. It is stated in *Hidayah*, "And meaning is authentic in such contracts and, sale of these by mutual surrender is executed in high- and low-quality goods; and this is valid because mutual consent is established." And Allah the Exalted knows better. (17:81)

Chapter on Options

Definition of a stipulated option

Summarized Question: from Qadir Ali (Anao), 16 Jamadil Akhir 1337H. (1) What is the definition of a stipulated option (*khiyar al-shart*)? (2) What are the conditions and what is the maximum duration for it? (3) Is the delivery of goods required immediately in case of a sale with stipulated option? (4) If the delivery of goods does not take place, would the sale with stipulated option be binding?

Summarized Answer:
According to the Sharia, sale with the option means the sale by the seller of a thing with the condition or/and purchase by the buyer with the condition that the buyer or the seller or both would have the option for three days to keep the sale intact or revoke it. This option cannot be for a period which is more three days but it can be for less than three day, for example one day or one hour. Within the agreed period one or both of them, for whom the option was stipulted, as the case may be, would has/have the option to reject the sale and the sale would stand cancelled. If the option is not excercised within the agree period, the sale would become binding.

However, the person sending these questions has mistaken *bay al-wafa* (a sale that is, in fact, a mortgage) to the sale with stipulated option. *Bay al-*

wafa is one that has a mechanism such that Zayd sold a thing to Amr and agreed for a term, for example one or two year, during which if Zayd does not pay back the price, the sale would become binding. And Allah the Exalted knows better. (17:90–1)

Chapter on the Unenforceable Sale (*al-Bay al-Fasid*)

Including a vitiating clause in a sale agreement

Question: from Nawab Wazir Ahmad Khan (Bareilly), 14 Jamdil Akhir 1331H.
The sale agreement of an asset was executed in customary wording. At the end of the agreement, there is a clause stating:

> This sale agreement would be effective after so-and-so period and the buyer will be entitled to the delivery of the asset and the vacated property after the said period; if the buyer takes the possession before that period and has the encumbrance vacated, he would be liable to pay the rental for that period besides the price.

Would the sale mentioned in the agreement be effective or the last clause? Reply and be rewarded.

Summarized Answer:
Each of the two clauses would have the respective effects. The effect of sale would be that sale has become complete whereas the effect of this vitiating condition would be vitiation and prohibition of the sale. It would be

obligatory for the parties to revoke the sale. If they do not revoke it, the ruler would be required to force the revocation. The buyer cannot take the asset and the seller cannot take its price. If the buyer takes the possession of the asset with the consent of the seller, he would become owner of the asset, as per the sale, but the ownership would be unlawful because of the vitiating condition. It would be obligatory for the buyer to revoke the agreement and return the asset to the seller. However, after taking possession with the consent of the seller, if the buyer transfers the asset to another person through a contract of sale, gift, debt, *waqf* or bequest (*wasiyah*), then he would be committing an act of sin but the sale would become binding, it could not be revoked and, where applicable, the buyer would be still not entitled to receive the agreed price, that is, he would not take the agreed price but the market price. And Allah the Exalted knows better. (17:127)

Chapter on Void Sale (*al-Bay al-Batil*)

Definition of void and invalid sales

Summarized Question:
What are void and invalid sales?

Summarized Answer:
Unlawfulness and prohibition of a sale falls in one of the three categories: void, invalid and prohibitory improper.

Void is one that has a defect in its contract itself or the subject matter (*mahal*). Defect in contract is, for example, sale and purchase by a lunatic (*majnun*) for his words are "no words" as per the Sharia, therefore, his sale or purchase cannot result in offer and acceptance. Example of the defect in the subject matter would be sale of a dead because a dead is not an asset.

Invalid sale is one where the sale is inherently free from defects but its attributes have defect, that is the attachments not included in the main contract, for example inclusion of vitiating conditions in the agreement. If the contract and the subject matter is free from defects, presence of the sale is established as per the Sharia. The examples of the defects in attributes are lacking in the seller's ability to give possession of the subject matter of the sale, undefined credit term or presence of a vitiating condition in the contract. And Allah the Exalted knows better. (17:141)

Chapter on Disapproved Commercial Activity (*Bay al-Makruh*)

Hoarding grains

Question:
Is stocking for sale of grain later permissible or not? Replay and be rewarded.

Answer:
Stocking grains with the objective to sale later when price goes high where it has been bought at the same or nearby place and where stoppage of its sale would be harmful for the public is improper and disallowed. However, if grains are bought from a distant place and are stocked for the price to rise or if the stoppage of its sale would not be harmful for the public, there would be no harm in stocking it. It is stated in *Hindiyyah*:

> Hoarding is improper and it occurs where grain is bought in the city and is not sold and this stoppage is harmful for the public. This is stated in *Hawi*. If grain is bought in city, is stocked and it is not harmful for the public, it would not be wrong. This is stated in *Tatarkhaniyyah* from *Tajnis*. If it is bought from a nearby place, brought to the city, is stocked and the hoarding is harmful for public, it would be improper. This is the view of

Imam Muhammad, and one of the two statements from Abu Yusuf also states the same. This view is authentic. Similar is staetd in *Ghayathiyyah*. And this is also the valid view as stated in *Jawahir al-Ikhlati*. It is stated in *Jami al-Jawami* that if grains are bought and brought from a distant place and are stocked, stocking these would not be impermissible. This is stated in *Tatarkhaniyyah*.

And Allah the Exalted knows better. (17:189)

Chapter on Sale by Unauthorized Agent (*Fuduli*)

Sale of wife's assets without her permission

Question:
Zayd sold jewelry of her wife Hinda that she had received in her dowery, and he used the proceeds for himself. Is that sale effective? Does she have right of claim against him, or not? Are jewelry, crokery and other assets received by Hinda, as dowery from her parents specifically for her, owned by her or Zayd? Reply and be rewarded.

Answer:
The jewelry, crokery and other assets received by Hinda as dowery from her parents specifically for her are owned by her and Zayd has no right over these. It is stated in *Dur*:

> Where a father has given dowery to his daughter and has given the possession of that to her, then he would not be entitled to take it back. His heirs also cannot take that back after his death if this was given while he was healthy. The ownership of that dowery rests with her. And fatwa on this matter is to be given as per this rule.

Therefore, the unauthorized sale made by Zayd cannot become effective without permission of Hinda. If Hinda demands, the jewelry can be taken back from the buyer. And Allah the Exalted knows better. (17:193)

Chapter on Revocation of Sale (*Iqalah*)

Revocation or cancellation of sale of a property

Question: from Hafiz Abd al-Majid (Muradabad), 6 Shawal 1339H.
Zayd bought a property owned by Amr for 625 dirhams through his friend Bakr. After agreement of the price, advance payment of 100 dirhams was paid to Amr against a receipt of the same. In the receipt, Bakr got his name written too by deception and he later filed a claim that the property was agreed to be bought jointly by him and Zayd, although this is absolutely false.

The matter was referred to *panchayat* (arbitration committee). The arbitrators took 50 dirhams each from both of them and decided that whoever receives these dirhams would not be entitled to get the property and one who takes the property would not receive these dirhams. Zayd agreed to get the property. Bakr received the 100 dirhams and decided to write the receipt of it. He was yet to write the receipt when some people from Bakr's locality who have enemity with Zayd asked Zayd to return back the receipt of advance money to Amr and informed Zayd that they would not let Zayd buy the property rather they would buy the property for income of the masjid. Zayd has returned the receipt to Amr under pressure.

Is it permissible to buy the property for income of the masjid without permission of Zayd, or not? People from the Bakr's locality say to Zayd that he has not right over it and his permission is not required. Reply and be rewarded.

Answer:
In the questioned situation, Zayd appointed Bakr as his agent to buy a specific property for him and Bakr had no authority to buy it for himself in absence of Zayd. Even if Bakr buys it for himself it would be for his principal (Zayd) if Bakr does not contravene the authority. The act of Bakr getting his name written in the receipt was also wrong, deception, ignorance and foolishness. The 50 dirhams taken from each of them by the mediators and their decision are meaningless, void and liable to be rejected. It is prohibited for Bakr to receive those 50 dirhams, and it is mandatory upon Bakr to return these to Zayd.

As per the statement of the question, the people of Bakr's locality had no right to coerce Zayd as per the Sharia. The customary pressure resulting from the insistence of people is not recognized by the Sharia. If Zayd has returned the sale contract and Amr has accepted the return, where the sale had not taken place, the sale has not occurred. Where the sale had taken place, it has become cancelled. In any case, Zayd has no relation to the property. If the people of Bakr's locality buy the property for the masjid with the consent of Amr, the permission of Zayd would not be required. And Allah the Exalted knows better. (17:217)

Chapter on *Murabahah* and *Tawliyah* Sales

Murabahah of currency notes

Question: from Haji Isa Khan Muhammad (Kathiawar, Dhoraji), 8 Jamadi al-Awwal 1330H.
Is *Murabahah* sale of currency note permissible, that is where the seller demands profit of one *ana* per-dirham of face value of currency note, or not?

Summarized Answer:
This issue requires some analysis. Initialy, I would reproduce statements of jurists from legal texts and then, with the help of Allah, present my research that would lead to the reply of the question.

You should know that our imams have defined *murabahah* in legal texts as a sale in which a person transfers ownership of a thing for some profit over its cost, as stated in *al-Hidayah*. This was summarized in *Kanz* by stating it as selling a thing for cost plus profit.

In my view, and help is from Allah, the subject of *murabahah* sale does not require to be a commodity, merchandise, articles or measurable by weight or volume. *Murabahah* of gold and silver would also be permissible

where gold is bought for dirhams or silver is bought dinars. It is stated in *Hindiyyah*, "Where gold that was bought for 10 dirhams is sold with profit of one dirham, the transaction would be permissible; a similar explanation is stated in *Hawi*."

A *murabahah* sale would not be permissible merely for the reason that it is *sarf* sale. For example, gold that was bought for 10 dirhams may be sold for 11 dirhams. Silver bracelet weighing equal to 10 dirhams was bought for one dinar may be sold for one-and-a-half dinars or a dinar plus a dirham. These transactions are *murabahah* and *sarf* but permissible.

Likewise, *murabahah* of a thing that was bought throught a non-*sarf* sale would not necessarily be permissible. For example, *murabahah* of wheat that was bought for a mound of wheat would be prohibited because it would involve *riba* although the transaction is not *sarf*.

Research shows that the subject of *murabahah* sale must meet two conditions.

(1) The subject of *murabahah* must be a determinate thing, that is the non-gratuitous contract must be related to a determinate thing rather than merely an indeterminate thing becoming payable. Moneys, like dirham and dinar, are not determinate in non-gratuitous contract. For example, where a thing is bought for 100 dirhams, it will not be required to give the particular 100 dirhams in hand. The buyer may also pay by any other 100 dirhams. However, when a pair of gold bracelets is sold, those particular bracelets would have to be delivered. The seller cannot change the bracelets and give some other bracelets, even if weights and design are similar. This condition applies to *murabahah*, *tawliyah* and *wadiyah* that is selling at price higher than, equal to or lower than the cost.

The thing has to be determinate because the contract is for that thing; if the thing is not determinate, the thing may not be the same. Therefore, where dinars are bought with dirhams, the *murabahah* of dinars would not be permissible. The reason is that dinars are not determinate in this situation. It would have been permissible if the first seller replaced those dinars with other dinars; and these would still not be determinate (in second contract) because the second seller may replace these with other dinars. Hence, it could not be claimed that he has sold the same dinars with a profit so that the transaction is *murabahah*. However, where a gold bracelet is bought for dirhams, it can be sold under *murabahah* because it is determinate in a sale; therefore, the contract would take place on the thing bought under the first contract.

(2) The subject of *murabahah* must not be a *riba*-bearing asset (asset sale of which may result in *riba*) that has been acquired against its own species, like gold for gold, silver for silver, wheat for wheat or barley for barley. This condition applies to *murabahah* and *wadiyah*, that is selling for higher or lower than the first price, but not to *tawliyah*, that is sale for a price equal to the first price (cost). In my view, the reason is that where a *riba*-bearing asset,

in which the excess results in *riba*, has been obtained against the own species, the seller in *murabahah* will sell it either against the same species or another species. Where he sells it (*riba*-bearing asset) against its own species, he must exchange equal measurements because an excess on any side would be *riba*. Where he sells it against a different species, the transaction would neither be *murabahah* nor permissible.

Since the basic concept has been analysed, we may address the questioned issue now.

In my view, the second condition (for a valid subject of *murabahah*) is already present in currency note because it is not among *riba*-bearing assets. The species of currency note and dirham or dinar are also not same. The first condition is also met at least in its nature since it is a saleable thing and article rather than original money (*thaman al-khalqi*). However, currency note is used as money because of convention (*istilah*). As long as it circulates as money and parties to a contract do not intentionally make it determinate, it would not be become determinate in gratituous contract. From above analysis, we know that the subject of *murabahah* has to be determinate, both at the time of first acquisition and at the time of *murabahah* to confirm that the thing acquired earlier is being sold under *murabahah* with profit.

Certainly, note is determinate at the time of *murabahah* since *murabahah* is impossible without a determinate subject. Therefore, where the parties intending *murabahah* of currecy note, they have definitely made it determinate, as in advance-payment (*salam*) sale of *fulus*, according to all three imams, and in sale of one determinate *fals* for two determinate *fulus* according to Imam Abu Hanifa and Imam Abu Yusuf, as I have presented the research of this matter in my book *The Seal of a Discerning Jurist*.

Now, we only need to consider whether the currency note is determinate at the time of first acquisition (that is, by the person selling in the *murabahah*). *Murabahah* of the note would be permissible where: (1) someone gifted him the note, (2) someone gave him the note non-gratituously (for example, in charity), (3) he received this note through testament, (4) he received the note in inheritance, (5) he usurped or snatched the note from someone and has paid the compensation and sold it, or (6) having received in trust, he refused the trusteeship and paid compensation and sold. The reason for the permissibility is that in all these situations, even dirham and dinar become determinate although these are original moneys whereas currency note is only a conventional (*istilahi*) money. In first four situations, the profit will be added by stating the market rate of the note. For example, the seller would say, "I have sold you this 100-dirham note for a profit of one *ana* per dirham." In the last two situations, the profit would be added to the compensation paid. For example, the seller would say, "This note cost me this much and I have sold it to you with this much profit."

(7) Likewise, where the note has been acquired through a *salam* sale, *murabahah* of the note would be permissible. For example, where 100-dirham note is bought for 90 dirhams with delivery after a month, the note would be determinate, for the already stated reason. For *murabahah*, the seller (in *murabahah*) would add the profit on the real price of 90 dirham, using 100 dirhams (instead of 90 dirhams paid) as the real price and adding profit to it would be prohibited.

(8) Likewise, where in sale and purchase of note clear declaration is made stating, "this particular note has been sold for this price," *murabahah* of the note would be permissible. The reason is that conventional moneys become determinate with such a clear expression and *murabahah* of note (by adding the profit) based on the acquisition price would be permissible. However, merely stating, "this note is sold for this price," would not make the note determinate unless the parties clearly declare that sale contract relates to that particular note only.

In the absence of the clear declaration, a currency note would not become determinate in the manner note is commonly bought so much so that where the seller sells a 100-dirham note for 100 dirhams, he would have the option to keep that particular note and give another 100-dirham note if it has equal circulation. Where he has not given the note to the buyer and the note is burned, torn or destroyed, the sale would not be void because the sale did not relate to that particular note and another note may be given. Therefore, *murabahah* of commonly bought currency notes is not allowed because they have not been acquired as determinate. Similarly, where some notes were stipulated as dower (*mahar*) of a woman which she receives from her husband, she cannot sell these notes under *murabahah* because moneys are not determinate in dower.

Where *murabahah* of currency note is prohibited, the prohibition means that the seller cannot fix the profit based on the price of first acquisition. However, where he sells without regard to the first sale, called *musawamah*, he may fix any price and even a 10-dirham note may be sold for 1000 dirhams.

Where *murabahah* is permissible and it is carried out in the manner stated in the question, for example one *ana* per dirham of the face value would be received, it would require the buyer to know its amount and the sum. Where the note is sold to an uneducated person who does not know the amount of note, in this situation, if he becomes aware in the same session, for example that a 100-dirham note is being sold to him for 106.25 dirhams, he would have the option to remain committed to buy or refuse upon becoming aware of it. Where he remains unaware till the end of the session, the sale would become invalid, prohibited and one that must be revoked, even if the buyer later becomes aware of the fact. And Allah the Exalted knows better. (17:219)

Chapter on Sale Before Taking Possession

Buying sugarcane produce before the crop

Question:
A sugar manufacturer bought sugarcane produce from a village's farmers at rate of 25 dirhams and paid the price. The manufacturer later sold the produce to the landlord of the village at the rate of 25 dirhams, without any profit or loss. The landlord tried to further sell the produce to which other sugar manufacturer offered the rate to the extent of 28 dirhams. Upon realizing that he would not get a price higher than 28 dirhams, the landlord asked the farmers to convert their respective produce into sugar and asked them to pay him at the rate of 30 dirhams. The first sellers know that there is dispute in the matter. Would this agreement of the landlord with the farmers that they would pay him at rate of 30 dirhams be permissible, or not? Reply and be rewarded.

Answer:
First, second and third all sales would be impermissible and prohibited where these have taken place before coming into existence of the sugarcane, as the practice in this region reflects. The Prophet has prohibited sale of a

thing that the seller does not have. The exemption granted in case of a *salam* sale is subject to certain conditions including the condition that the subject of *salam* sale must remain available in market from the day of contract till the promised day.

The third sale would specifically be impermissible even if the produce is available at the time of sale contract. The reason is that an invalid sale does not gives ownership to the buyer through possession and the sin it involves does not cease to exist. And Allah the Exalted knows better. (17:584–5)

Chapter on Using Goods Sold and Price

Waiver of the price would not convert a sale into a gift

Question:
In case of a sale of property, would it be permissible if the seller waives the partial or full price for the buyer, in the same or another session (*majlis*), or not? Would the waiver result in conversion of the sale into a contract of gift? Reply and be rewarded.

Answer:
It is certainly permissible for the seller of a thing to waive the entire or part of the price for the buyer in the same or another session. With the waiver, the contract will continue to be a sale contract and the related rules shall apply, and it cannot be called a gift because of the waiver and cannot be subjected to the rules for gifts. The reason is that the waiver or gift is that of the price rather than the asset sold. The word 'price' itself requires existence of the sale. If it were not a sale, what would this price be for that has been waived? It is stated in *Hindiyyah*:

> Where the entire price is waived, gifted or discharged from, all these acts would be valid, if occurring before the delivery (of the goods). However,

> it will not relate to the original contract. Where it (waiver etc) occurs after delivery, waiver and gift would still be valid but discharge would not, as stated in *Muhit*.

It is stated in a hadith reported from Hadrat Jabir (Allah be please with him) in *Sahih Bukhari* and *Sahih Muslim*:

> I accompanied the Prophet (peace and blessings of Allah upon him) in a battle. He met me while I was riding a camel that was being used a water carrier. The camel was tired and was hardly able to move. The Prophet asked about the condition of my camel. I replied that the camel was tired. The Prophet turned to the camel and scolded and prayed for the camel. The camel started walking ahead of all other camels. The Prophet asked me about the camel later. I replied that the camel was better and had received blessing from him. The Prophed asked me if I would sell the camel to him. I did not refuse out of the respect of the Prophet, although I did not have any other camel, and sold the camel to him on the condition that I would ride the camel until we arrive in Medina. Upon the Prophet's arrival in Medina, I approached him with the camel (for its delivery). The Prophet paid me the price for the camel and also gave me the camel.

You may note that the Prophet had bought the camel, he paid the price and also did not take the camel. Similarly, a seller is allowed to deliver the goods and also not receive the price. And Allah the Exalted knows better. (17:246)

Chapter on Loan

Loan taken for employer

Question: 5 Shawwal 1307H.
Zayd asked his employee to obtain a loan of 50 dirhams from someone. The employee borrowed 50 dirhams from a moneylender saying that his employer (Zayd) needed the money. The moneylender gave 50 dirhams withtout any confirmation and the employee gave a promisory note to the moneylender. The employee handed over the dirham to Zayd and said, "I have brought these dirhams from so-and-so moneylender on your behalf and have given a promisory note signed by me." Subsequently, Zayd gave 50 dirhams to the employee. After a long time, it is discovered that the repayment was not made to the moneylender and the employee used those 50 dirhams of the repayment himself. Upon inquiry, the employee admitted that he did not repay the 50 dirhams to the moneylender and that he obtained the loan against the promisory note and the employer had to pay him (rather than to the moneylender).

In this situation, would Zayd be liable to repay the loan to the moneylender, or not? Would the employee be liablte to pay 50 dirhams used by him, or not? Reply and be rewarded.

Summarized Answer:
(1) In the questioned situation, if the employee had obtained the loan saying, "Lend 50 dirhams to my employer" or "My employer has asked for a 50-dirham loan from you," then the employer would be liable to repay the loan.

(2) If the loan was obtained saying, "My employer needs 50 dirhams, give me a loan of 50 dirhams," or "Give me a loan of 50 dirhams for my employer," then the employee would be liable to repay the loan to the moneylender. Morevoer, in this situation, the employee had become the owner of those borrowed dirhams and gave those to the employer who used those dirhams. Since the transfer to the employer was not a gift and it was a loan that became due and payable, the employee has a debt receivable from the employer.

If the loan was not repaid to the moneylender, it would remain payable.

In the case of situation (1), the moneylender has a loan receivable from Zayd (the employer). The money given by Zayd to the employee for repayment but used by the employee were used without any reason and it was a prohibited act, and the employee would be liable for the money. His statement that he had given a promisory note for obtaining the loan and he was entitled to receive repayment from the employer would not be acceptable. If the loan was payable by the employer to the moneylender, the employee had no right to retain the repayment.

In the case of situation (2), the loan would be repayable to the moneylender by the employee, and Zayd would not be liable. The dirhams retained by the employee, considering a repayment, were rightly retained because the amount was due from Zayd to the employee who was entitled to receive it from Zayd. Zayd has discharged the claim of the employee. And Allah the Exalted knows better. (17:270)

Chapter on Prohibition of *Riba*

Hadiths condemning *riba*

Question: 21 Rajab 1316
A man says "receiving *riba* is worse than having *zina* (unlawful sexual intercourse) with one's own mother, and that receiving one dirham of *riba* is worse having intercourse with one's own mother for so many times. Is it correct or not? Reply and be rewarded.

Answer:
No doubt, it is correct, and there are numerous hadiths on this subject.

(1) The Prophet (peace and blessings of Allah upon him) said, "The one receiving a dirham of *riba* is like having committed *zina* 33 times; a gain of body from the prohibited is more liable to the fire of the Hell." This hadith has been reported by Tibrani and Ibn Asakir from Hadrat Ibn Abbas.

(2) and (3) The Prophet said, "No doubt, a dirham of *riba* received by a man is worse in the court of Allah than having *zina* 33 times in Islam". This hadith has been reported by Tibrani in *Kabir* from Hadrat Abd-Allah Ibn Masud and Hadrat Abd-Allah Ibn Salam, Allah be pleased with them.

(4) The Prophet said, "A dirham of *riba* that a man knowingly receives is worse in the court of Allah than committing *zina* 33 times.". This hadith has been reported by Imam Ahmad with valid certification and Tibrani, in

Kabir, from Hadrat Abd-Allah Ibn Hunzala, Allah be pleased with him.

(5) The Prophet said, "A dirham of *riba* is worse in the court of Allah than committing *zina* 36 times."This hadith was reported by Ibn Abi Duniya and Bayhiqi from Hadrat Anas Ibn Malik, Allah be pleased with him.

(6) The Prophet said," No doubt, a dirham of *riba* is a more severe crime in the court Allah than committing *zina* 37 times." This hadith has been reported by Hakim from Hadrat Ayesha, Allah be pleased with her.

(7) The Prophet said, "*Riba* has 70 sins among which the least is marrying one's own mother," and "*Riba* has 70 doors, the least of which is falling on one's own mother." This hadith has been reported by Ibn Majah and Ibn Abi Duniya and Ibn Jarir and Bayhiqi have also reported it. All of them have reported it from Hadrat Abu Hurayra, Allah be pleased with him.

(8) The Prophet said, "*Riba* has many doors, one of which equals 70 sins, the least of which is *zina* by a man with his own mother." This has hadith been reported by Ibn Mandah and Abu Naim from the Prophet's maternal uncle Hadrat Aswad Ibn Wahb, Allah be pleased with him.

(9) The Prophet said, "*Riba* has 74 doors or 73 sins the least of which is like a man having *zina* with his own mother." This hadith has been reported by Imam Abd al-Razzaq from a man among Ansaris.

(10) The Prophet said, "*Riba* has 72 doors, the least of which is like a man having *zina* with his own mother." This hadith has been reported by Tibrani in *Awsat* from Hadrat Bara Ibn Azib, Allah be pleased with him.

(11) The Prophet said, "No doubt, doors of *riba* are 72 sins, the least of which is having *zina* with one's own mother, in Islam." This has been reported by Tibrani in *Maujam al-Kabir* from Hadrat Abd-Allah Ibn Salam.

(12) The Prophet said, "*Riba* has 73 doors, the least of which is like a man marrying his own mother.' This hadith has been reported by Bayhiqi from Hadrat Abd-Allah Ibn Masud, Allah be pleased with him.

(13) The Prophet said, "*Riba* has some over 70 doors, the least of which is like having *zina* with one's own mother in Islam, and one dirham of *riba* is worse than committing *zina* 35 times." This hadith has been reported by Bayhiqi from Hadrat Abd-Allah Ibn Abbas, Allah be pleased with him.

(14) Hadrat Uthman (Allah be pleased with him) has reported, "*Riba* has 70 doors, the least of which is marrying one's own mother."

(15) Hadrat Abd-Allah Ibn Masud has reported, "*Riba* has 72 sins the least of which is having *zina* or *riba* is severe than committing *zina* over 30 times." This has been reported by Ibn Abi Dunya and others.

(16) Hadrat Abd-Allah Ibn Salam quoted, "*Riba* has 73 sins, the least of which is having *zina* with one's own mother, in Islam, and a dirham of *riba* is like over 30 times." This has been reported by Imam Abd al-Razzaq.

(17) Hadrat Kaab quoted, "No doubt, I would rather prefer committing *zina* 33 time then receiving a dirham of *riba*." This has been reported by Imam Ahmad. We seek protection of Allah and may Allah guide Muslims (to avoid *riba*). And Allah the Exalted knows better. (17:293–98)

Chapter on Sale of Pure Rights and Easements

Marine, fire and life insurance

Summarized Question: from Sarwar Khan (Mumbai), 13 Moharam 1334H.
In an insurance company, where all the owners and authorized persons are Christians, marine insurance, fire insurance and life insurance are sold. There are various forms of insurance. The question then describes various insurance products in detail. Is it permissible to pay premium to the insurance company, entering insurance contract with the company, and receiving the claims from the insurance company permissible, or not? Regards.

Answer:
This is absolutely gambling and the agreement is void because it does not fall under any contract recongnized by the Sharia. In such situations, where the Sharia has permitted void agreements without involving deception, the permission is limited to agreements which in all situation would result in gains for a Muslim. This condition is not possible in such companies. Therefore, there is no permission for the questioned contracts. This matter

has been analyzed in detail by Ibn Humam in *Fath*. And Allah the Exalted knows better. (17:364)

Chapter on Third-Party Rights (*Istihqaq*)

Buyer of a property that was received as dower

Question:
Ghulam Husayn died leaving his wife, Niyaz Bibi, and sister, Bani Waris as heirs for his house, another plastered house and one unplastered house in inheritance worth about 600 dirhams. The dower of 1000 dirhams was receivable by Niyaz Bibi from Ghulam Husayn. Niyaz Bibi took possession of the two houses against dower and sold the plastered house for 450 dirhams to Shaykh Muhammad Wazir and mentioned only her name as the owner, possession holder and user of the house in the sale agreement. Niyaz Bibi than proceeded for travel to offer *Hajj*. In her absence. Bani lodged a claim of inheritance over three-fourth of the house and obtained an order from the court. One-fourth of the house remains with the buyer.

Upon arrival back from *Hajj*, Niyaz Bibi died. Her heirs filed a claim for her dower which was proved to be valid and order against Bani was passed. Three-fourth of the house and the unplastered house were sold. Now, the heirs of Niyaz Bibi want to sale the one-fourth of the house against the dower. What is the injunction of the Sharia in this situation? Was the sale by Niyaz Bibi permissible or not? The claim of her heirs is valid or

not? Three-fourth of the house was lost by the buyer and if one-fourth is also lost by him, would the buyer be entitled to receive back the money paid by him to Niyaz Bibi, or not? Reply and be rewarded.

Summarized Answer:
In the questioned situation, Niyaz Bibi's dower receivable from Ghulam Husayn was more than the assets left by him, and her possession over all the assets against the dower was valid.

Niyaz Bibi, as per prevalent rule for issuing fatwa on this matter, became the owner of the houses and her sale to Muhammad Wazir was valid and effective. Bani did not have the right to claim inheritance because payment of dower takes priority over inheritance. The heirs of Niyaz Bibi cannot claim dower because Niyaz Bibi received her dower during her lifetime. The unplastered house is to be divided amoung her heirs.

If the said prevalent rule for issuing fatwa is not considered, then the assets left by Ghulam Husayn were not owned by anyone after him. Hence, the sale by Niyaz Bibi was for a property not owned by her. She used the proceeds from the sale for herself. In this case, if the sale is revoked for paying the dower and the buyer is deprived of the property, the buyer would be entitled to receive back the price paid by him. Therefore, he would be paid 450 dirhams from amount received from Niyaz Bibi and the remaining would be distributed among her heirs. And Allah the Exalted knows better. (17:561)

Chapter on *Salam* (Advance-Payment Sale)

Conditions applicable to *salam*

Question: from (Ferozpur), 29 Jamdi al-Akhir 1306H.
Where payment is made in advance and the grains are agreed to be received when crop is ready, what would be the conditions for its permissibility? Reply and be rewarded.

Summarized Answer:
This sale is called *bay al-salam*. *Salam* is permissible if the following 12 conditions are met. It would not be permissible and be *riba* if even one of the 12 conditions is not met.

(1) The specie of that thing is defined.

(2) If the specie is of various kinds, the kind would need to be defined.

(3) The attribute of that thing is specified.

(4) The quantity fo that thing is specified.

(5) The time period for delivery is specified and it must not be less than a month.

(6) If the thing is to be transported that involves cost, the place would need to be specified.

(7) Price money is defined, for example, dirham or dinar.

(8) If the money is of various kinds, the kind would need to be specified.

(9) The purity and impurity of the money is also specified.

(10) The quantity of moneys would also be specified if parts of money correspond to the parts of the thing sold.

(11) The price money is paid in the same session.

(12) The thing sold is such that it remains available in the market from the day of contract till the day of the delivery of the thing. And Allah the Exalted knows better. (17:569)

Chapter on *Istisna* (Goods Made to Order)

Buying made-to-order chairs

Question: from Hafiz Muhammad Yaqub Khan, 16 Rabi al-Akhir 1312H. A carpenter agreed to deliver one dozen chairs within a month for 30 dirhams and until he delivers the chairs he would not make his or someone else's items. If he breaks his commitment, he would make the chairs for 24 dirhams. The carpenter broke his promise and made someone else's furniture and also delivered the chairs after a month. In this situation, is it permissible to receive the chairs for 24 dirhams, or not?

Answer:
In the questioned situation, the chairs can neither be taken for 24 dirhams nor for 30 dirhams, rather dissolution of the contract is obligatory because it is an invalid sale, which is a sin and it is mandatory to remove the sin.

If the parties agree, after the dissolution, they may sell and buy the chairs under a new contract for a mutually agreed price. The reason is that having someone make a thing on order at a given price is called *istisna*. If having such a made-to-order thing is a custom at that place, and its kind, attribute, characteristic, condition, measurement, price etc are so clearly

defined that no uncertainity remains that may cause any future dispute, and no time for delivery is mentioned, then the contract would be permissible according to the Sharia.

In above situation, the conditions related to *salam*, for example payment of the price in the same session, the presence of the subject matter in market or its being fungible, are not required to be met. However, if the condition of one month or more for the delivery is added, the contract becomes *salam*. To this, the contract must meet all the conditions of *salam* and if even one condition is missing, the contract would be invalid.

In the questioned case, since the term was one month or even more, the contract became *salam* sale and because of the uncertainity that the price would be 30 dirhams in one month and the price would be 24 dirhams in more than one month, neither the price nor the term is fixed although their fixation is condition of *salam*, therefore, the contract would be invalid.

Istisna is a sale and a sale cannot take place with such uncertainity about the price, that is, in such-and-such period the price would be as much. Therefore, in *istisna*, even if the term is not more than a month or more, such confusion would render the contract invalid and dissolution of it would be obligatory. And Allah the Exalted knows better. (17:597)

Chapter on Faking a Sale (*Bay al-Taljiyah*)

Sale in form rather than substance

Question:
Zayd faked sale of a part of a house owned by him to Amar for a reason without receiving the price on a superficial sale agreement and did not give possession of the house. Upon the death of Zayd, Amar wishes to gift the house to the heirs of Zayd. Would gifting the house be permissible or not? If the gifting is permissible, in what situations it can be returned and in what situations it cannot be returned? Reply and be rewarded.

Summarized Answer:
If it is proved in view of Amar from offer, acceptance and eye witnesses recongizned by the Sharia that the sale was only in form and not substance, which is called *bay al-taljiyah*, then the sale would be complete according to the Sharia. Accordingly, if the parties permit, it can become effective. However, since Zayd has died before the permission, the sale has become void. Therefore, it would be meaningless if Amar, who is not the owner, gifts the house to the heirs of Zayd, who are the owners. If Amar wants to do to avoid any unwanted situation and wants that the sale agreement

becomes ineffective, the gift would still be meaningless because he may announce and make witness to the effect that Amar is not the owner of the house and that that the sale to him was fake. This would be stronger than a sale because there are conditions attached to a gift. And Allah the Exalted knows better. (17:639)

Chapter on Pledge Resembling a Sale (*Bay al-Wafa*)

Gain to the lender from pledged property

Question: from Hafiz Mohi al-Din (Fatehpur), 10 Jamdi al-Awla 1337H. Zayd has taken some property of Amar in such a manner that when Amar would return Zayd's money, the property would revert to Amar. Until the money is returned, Zayd would pay government dues from the income of that property. The amount from the property in excess of the government dues would be used by Zayd.Would the excess amount be permissible for Zayd or not?

Would that be *riba* or not? If it would be *riba*, would the prayers led by Zayd of those who do not receive *riba* but pay *riba* to moneylenders be valid, or not?

Answer:
The questioned situation is that of *bay al-wafa* and the injunctions related to it are similar to those related to a pledge.

Deriving any benefit from it (by the lender, who is apparently the seller) is *riba*. It is stated in a hadith that any loan that brings a gain is *riba*. Prayer

led by Zayd would be improper even if the followers are also those receiving or paying *riba*. And Allah the Exalted knows better. (17:645)

Chapter on Scattered Issues

Pyramid, ponzi and multi-level marketing scheme

Question: from Haji Muhammad Ayzaz Husayn Khan (Shahjahanpur), 16 Rabi al-Awwal 1320H.

A person has published an ad claiming to give a watch worth 30 dirhams for one dirham. But this is subject to some conditions. The seller would send five tickets to the person who buys a ticket for one dirham. When the buyer sells the five tickets for five dirhams and sends the five dirhams to the seller along with the names of the buyers, the seller would send five tickets to each of the five buyers. When all the five persons sell their respective tickets and send 25 dirhams to the seller, the seller would give the 30-dirham-worth watch to the first buyer. The advertiser would, then, send five tickets each to the later 25 buyers. When all of them sell their respective tickets and send the moneys (125 dirhams) to the seller, the seller would give the watches, each worth 30 dirhams, to the five persons who bought tickets from the first buyer.

In sum, as the 30-dirham tiers (5 plus 25) continue to reach the seller in this manner, the seller would be giving the watches to each buyer in turn. As a result, every buyer will get a watch for one dirham provided he sells tickets of 30 dirhams for the seller. The ticket is actually evidence or acknowledgement of the purchase because he has written (printed) the word

"coupon" on the ticket that translates as "undertaking of *riba*". This shows that the ticket is not the thing sold but an undertaking that a thing worth 30 dirhams from the listed items, applied by the buyer, will be given for one dirham according to the above advertised conditions.

Is it lawful according to Sharia to obtain a thing through such an arrangement or not?

If lawful, is the nature of the contract is that of a sale or something else? If it is a sale contract, does it also include any other contract or not, like agency, brokerage and *ijarah* (hire for wage)?

Does the price consist of one dirham or also include the stated excess? If the price includes the excess, would the sale be prohibited by the Sharia, as in case of the prevailing lottery sale, although the entire lottery is not drawn at a single time but at different times, or not?

Would the sale be lawful or not where it includes the said conditions?

A reply with reference to valid evidence from the Sharia may please be given. A copy of the advertisement is attached with this query for consideration. Reply and be rewarded.

Translation of the ticket that sells for one dirham:

COUPON

Buyer of an item worth 30 dirhams only for one dirham will get this ticket with a certificate and five tickets each of which should be sold for one dirham. The sale proceeds, that is, the five dirhams received, should be sent to us through money order or cheque. The tickets should be distributed as written on the certificate.

The word used for the ticket is "coupon", the dictionary meaning of which is "undertaking of *riba*".

A copy of the advertisement is reproduced here for perusal:

Worth 30 dirhams, for one dirham only!

LONDON WATCH COMPANY
Commercial Building, Lucknow

Golden, silver and metallic pocket watches, clocks, jewelry etc. You will get this certificate for which you have only spent one dirham, and (you) need to sell the attached tickets honestly for one dirham each to your friends and visitors.

Sell them as many as possible. When you send this certificate to us along with the sale proceeds you have received, we promise to give you an item from the above stated items according to your entitlement (look at our Sample Catalogue) provided the following detailed conditions are met.

(1) You will send us the names and addresses of the persons to whom you have sold the tickets.
(2) We will inquire from the persons in writing, for our satisfaction, whether you have sold them the tickets or not.
(3) The persons will send us their certificates with the money collected by them from the sale of the tickets sent to them.

If you or your friends are unable to sell all five tickets, you would still be entitled to one of our precious items where four, three, two or even one ticket is sold in compliance with the above conditions.

Think it thoroughly that you are spending only one dirham from your pocket to become entitled to the watch or clock of pure gold worth 30 dirhams subject to the above conditions. We work faithfully with you and believe that you would also be faithful to us. We trust you. You may have any item of our stocks, from the Sample Catalogue, checked in India (the Indian subcontinent), Burma (Myanmar) and Ceylon (Sri Lanka) for your satisfaction.

Regards.

Answer:
The stated scheme is prohibited and gambling (*qimar*). It is the sum of million of prohibited acts. In fact, it involves an infinite series of prohibited acts, and is a stratagem given by the devil, the deceitful. Almighty Allah says:

> Likewise, we have created, for each Prophet, enemy humans and genies who lie to one another to deceive (and if your God wanted, they would not do so; hence you should leave them with their lies) and to attract the hearts of those who do not believe in the Hereafter towards the evil and start likening and earn through it what they want to earn.

The earning in the Hereafter will be the trouble and punishment. As in the quested situation, the earning in this world would be few dirhams for some people, and watch, bracelet etc for some others whereas the remaining participants will get "the loss of this world and the Hereafter" because they will loss dirhams and get nothing. "Beloved! Ask them if Allah has given permission to them or they lie about Him" announces the Quran meaning that since there is no permission so it must be a lie. "Do they have some fabricated gods who have created that Din (system of life) for them which Allah has not permitted?" May Allah protect Muslims from the deception of the devil, ameen!

A brief detail of the above summary is as follows. If we look at the reality, from the point of objective of the seller and the buyer of the ticket, the stated scheme is not a sale, purchase or any other Sharia-recognized contract. It is merely a trap for the masses in the game of greed to attract them showing the hope (of gain). This is exactly what constitutes gambling. Clearly, neither there is any statement about the sale and purchase of the greed-catching watch, bracelet etc nor is the species of it determinate. On the contrary, the trader promises to give an item from the stated items where the given conditions are met. This is only a promise whereas sale is a contract, and there is significant difference between a promise and a contract. As far as the certificate and the ticket are concerned, the seller demands the certificate back with the proceeds. After payment of the price, return of the thing sold is meaningless in sale. Jurists state as follows to identify a child having no sense of sale and purchase: He takes the thing bought and also demands the price back, and this shows that he does not know the meaning of exchange whereas sale is nothing but exchange (of assets).

Yes, there is a statement about sale of the ticket. But the printed wording makes it clear that the ticket is not the thing sold but only an undertaking which a buyer would show to receive an item worth 30 dirhams for one dirham if the conditions have been met. If it were a sale of the ticket, the buyer would be a fool where he buys a two-inch-long useless paper for one dirham, which does not worth even two *koris* (seashells as currency). Hence, this is not a sale or any other valid contract.

The trader has a plan to attract salespeople across the country for his stocks without affording any cost or effort. As a result, he would be continuously receiving the tagged price in not time. Servants work for wage and slaves work without wage whereas his customers would be trapped such that they would pay the price and also work for him. Effort for an act has two causes: fear and hope. Both of them are present in this case. There is the hope of getting 30-dirham-worth thing for one dirham. One who gets a ticket would be forced to find five other fools. This will add up to six (1 plus 5) dirhams to the trader with no cost. Each of the five newly caught persons will try to trap five new ones for greed of 30 (dirhams) and for the

fear of losing one dirham without any return. In this manner, the scheme will continue (to make a pyramid), and the fool countrymen will become active in clearance (*nikasi*) of his stocks.

Until the structure stops expanding, the trader would be making large sums and when it collapses, he would loss nothing. The losers would be the buyers of the ticket who bought a worthless thing. The trader would still be saving hundreds of dirhams easily, whereas the fools will be trapped in any case. This is the plan of the trader. On the other hand, the buyer would think that his maximum loss is one dirham whereas the possible gain is 30 dirhams, hence, the luck should be tried. To this extent, it is greed, and the fear of loss would also arise when he has sent the money. This will make him engage others to recover his dirham even if others loss their moneys.

In this way, this hope-and-fear pattern would expand. Few initial participants will win some prohibited wealth whereas later entrants would suffer in large numbers. This is the unlawful acquisition of wealth that the Quran has stated as prohibited saying, "O believers! Do not acquire wealth of one another unlawfully." This is the uncertainly (*gharar*), risk (*khatar*), destruction (*darrar*) and danger (*darar*) caused to self and others that has been prohibited in the *Sahihs* (a category of books of hadiths).

This stratagem is even worse than lottery. In lottery, every party engages itself in the gambling and sin whereas in the questioned scheme every earlier participant will lock later fives for his benefit. Lottery involves only risk whereas this scheme will carry risk, danger, destruction and malfeasance (*ghash*) everything. The Prophet has said, "A malfeasant to us (Muslims) is not from us;" Imam Muslim, Imam Ahmad, Abu Dawud, Ibn Majah have reported this hadith from Hadrat Abu Hurayrah, and Tibrani has reported it in *Muajam al-Kabir* from Hadrat Zamayra (Allah be pleased with them). Another hadith reads, "A malfeasant or one who injures a Muslim is not among us;" Imam Rafai has reported it from Hadrat Ali (Allah be pleased with him). Hadiths on this topic are to the extent of *tawatur*, and the acceptance of the said acts as prohibited is itself among necessities of Islam, as is not hidden (from one who knows Sharia).

This is the real position of the issue whereas if the wording is considered, it is a sale and purchase of the ticket. In the first place, there is doubt whether the ticket is an asset. An asset has attraction for people and can be stored for a needy time. The ticket is devoid of both these attributes. It is stated in *Kashf al-Kabir*, *Bahr al-Raiq*, and *Rad al-Muhtar*, "An asset is anything that has attraction for people and can be stored for a time of need." In view of this definition, the sale will be void *ab initio* because "sale is an exchange of one asset for another asset," as stated in *Kanz*, *Multaqi* etc.

Even if the ticket is assumed to be an asset, the sale would include numerous void conditions whereas the Prophet has prohibited a sale with condition. Hence, the contract would be void for many causes, and every void is a distinct prohibited act.

On the one hand, this chain of malfeasance, evil and prohibited acts would engage buyers in sequence. On the other hand, neither the specie of the item worth 30 dirhams is determinate nor woulf it be given for the act of the buyer only. His action will finish when the five tickets (sent to him) have been sold whereas the entitlement to the item, under the promise will materialize when the five tickets are sold and the five dirhams along with five dirhams each from the five new participants are received (that each of them would get from sales of their five tickets). This will not be the act of the person becoming entitled. Resultantly, if it were an *ijarah*, it would be void for this reason and also vitiate the sale based on the *ijarah*. In reality, the scheme is merely an attraction for greed and falls in the category of bribery (*rishwat*).

In sum, the evils of this compounding prohibited deal are numerous, and the worst (sin) is the wording, "We work faithfully with you." Calling such severely sinful acts and the stratagem "faithful" is a worse sin than the sins actually involved where the advertiser is a Muslim because then it would not only be an acquisition of prohibited (wealth) but also a praise of a prohibited (act).

We seek protection of Allah from such evils. And Allah the Exalted knows better. (17:327–33)

BOOK OF CURRENCY EXCHANGE

BOOK OF CURRENCY EXCHANGE

Chapter on *Sarf* (Original-money Exchange) 373
Exchange of moneys 373
Chapter on Conventional Money (*Thaman al-Istilahi*) 375
Purchase of currency note on discount 375
The Seal of a Discerning Jurist: On injunctions concerning paper money 377
The Relevant Annexure: Against two wrong fatwas about paper money 379

Chapter on *Sarf* (Original-money Exchange)

Exchange of moneys

Question: from Abd al-Hakim Khan (Rampur)
Would any of the following transactions result in *riba*?
(1) Zayd sold 24-dirham dinar to Bakr. He paid 12 dirhams on the spot and promised to pay and paid the remaining 12 in two to four days.

(2) Zayd demanded change of one dirham from Bakr and paid one dirham. Bakr paid one half-dirham coin on the spot and paid two quarter-dirham coins after two days.

(3) Zayd demanded *fulus* from Bakr by paying one dirham. Bakr paid one half-dirham coin on the spot and promised to pay the balance amount in two days. He paid eight *fulus* after three days.

(4) Zayd bought goods worth one *ana* from Bakr and gave one dirham. Bakr said he did not have *fulus* of the balance amount and would give later. He paid the *fulus* of the balance amount two days later.

Answer:
(1) This transaction is prohibited because hand-to-hand possession is a condition for an exchange of gold and silver.

(2) If Zayd demanded *fulus* against the one dirham and paid one dirham, Bakr paid one half-dirham coin and paid two quarter-dirham coins after two days, then the transaction would be permissible because in exchange of dihram with *fulus*, possession from one side is sufficient, as I have presented its research in my book *The Seal of a Discerning Jurist*. If Zayd demanded eight *fulus* and two quarter-dirham coins for one dirham which were paid later, then the transaction would be prohibited, because in *sarf* sale hand-to-hand delivery is a condition.

(3) This transaction is permissible because one-sided possession has occurred in *fulus* and two-sided possession has occurred in the half-dirham coin.

(4) This transaction would also be permissible, for the reason stated above, if remaining amount was agreed to be settled in *fulus*, as stated in the question. (17:338)

Chapter on Conventional Money (*Thaman al-Istilahi*)

Purchase of currency note on discount

Question: Shahjahanpur, 1299H.
Is discounting of currency note, for example, purchase of a 100-dirham note for 99 dirhams is permissible or not? Reply and be rewarded.

Answer:
Clearly, currency note is a new thing that has been invented recently. It was not found in the times of earlier jurists so that its ruling could be found in their texts. However, as far as I consider, the questioned transaction appears to be permissible according to the Hanafi school of law, and there seems to be no reason for its impermissibility; apparently because the causes of the prohibition of *riba* are the measurement criteria (weight or volume) with the same species. Where measurement criteria and species both are same, excess and credit both will be forbidden. Where one of the causes is present, excess will be permissible but credit will be forbidden. And where neither of the two causes is present, both excess and credit will be lawful (*halal*), as stated in the Hanafi legal texts. It is stated in *Tanwir*:

> The causes for prohibition of the excess are sameness of measurement criteria and that of species. If both causes are present, excess and credit both will be forbidden. If one cause is present, excess will be lawful but credit will be forbidden. And if both causes are absent, excess and credit both will be lawful.

In the subject transaction, both (the causes) are absent. Absence of the same specie because currency note is paper whereas dirham is silver, and absence of the measurement criteria because note is dealt with neither by volume nor by weight. Therefore, both excess and credit should be lawful based on the stated principle.

The issue has been answered in the above paragraphs, but a person who is not a jurist may have doubt that although a currency note is only a printed paper, it is treated in custom (*urf*) and convention (*istilah*) as if it is the same as dirham. For this reason, note is used in place of dirhams and payments in the form of 100-dirham note and 100 dirhams are not differentiated. Generally, it is used like original moneys (gold and silver coins) so one may think as if it was 100 dirhams sold for 99 dirhams, which must be forbidden, so the questioned transaction should be ruled as forbidden.

In my view, one who has some foresight in jurisprudence can address this doubt easily. The usage of currency note as money cannot make it original money. At the most, note would be conventional money like things that are originally among articles (not moneys) but custom and convention have made these moneys, for example, *fulus* and, in some cities, cowry shells (*kodis*). Since original moneys comprise only gold and silver, where users would proceed to use non-monetary things as moneys, they will have to assign these values in terms of original money. For this reason, value of *fulus* is stated in terms of dirhams, for example, one dirham equals 16 *anas* [one ana equals four *fulus*]. Similarly, when they proceeded to declare note as conventional money, they would fixed value of it in relation to original money. They have fixed the value of a particular type of note as equal to 100 dirhams, another as equal to 200 dirhams, a third as equal to 1000 dirhams. However, all these ratios are fixed by convention and do not make the measurement criteria and the specie of currency note same to that of dirham. As 16 *anas* do not become one dirham when fixed in relation to dirham, agreeing for the ratio of a 100-dirham note to 100 dirhams would not convert that paper note into silver (dirham). Therefore, the cause for prohibition of *riba* is absent.

Parties to a contract are not bound to follow custom and convention that has fixed relative prices [ratio of the face value of note to dirham]. They have exclusive authority over their transaction and may sell a 100-dirham article for a *fals* or for 1000 dinars with mutual consent. Do not you see that number of *fulus* equal to a dirham is always fixed in custom but our jurists have ruled permissibility of selling a half-dirham coin for more than

equivalent *fulus* [eight *anas*]. Similarly, everyone knows that one dinar has price equal to several dirhams but jurists have declared purchase of one dinar for one dirham permissible. Again, reason is the difference in species which make the excess permissible. It is stated in *Dur*:

> Where a person gives one large dirham to money changer and demands *fulus* of half dirham and a small dirham [equal in weight to half the large dirham wanting a *habba*], the transaction will be permissible. Silver in the large dirham weighing equal to the small dirham will be the counter value of it and the remaining silver of the large dirham will be the counter value of the *fulus*.

It is also stated in *Dur*, "Sale of two dirhams and one dinar for one dirham and two dinars is valid, and species would be the counter values of each other." And where the Sharia has permitted these transactions are permissible by Sharia, there could be no harm in buying 100-dirham note for 99 dirhams because neither the measurement criteria nor species of the counter values are same. This is the ruling for sale in which profit and benefit are permissible.

However, where 99 dirhams are lent with the condition that 100-dirham note will be repaid, the arrangement will be definitely prohibited because "a debt that brings a gain is *riba*," as evident from the Hadith and the Jurisprudence, so-much-so that our jurists have declared money-transfer loan (*suftaja*) impermissible because it brings the gain of security in money transfer. Moreover, advancing money with the condition that the depositor would gradually buy the merchandise has been declared improper, as stated in *Hidayah* and other texts although these gains are not assets then how this gain could be permissible in values. Certainly, this would be opposed to the objective of the Sharia to protect the assets of people which is the reason for legislating *riba* as forbidden, as stated in *Fath*.

This is what has appeared to me, and Allah the Exalted has all the knowledge. (17:601–4)

The Seal of a Discerning Jurist: On injunctions concerning paper money

Kifl al-Faqih al-Fahim fi Ahkam-i Qirtas al-Darahim (1324)

Questions: from Shaykh Abd-Allah Mirdad Makki and (his teacher) Shaykh Hamid Ahmad Muhammad (Makkah), Muharram 1324H.

What do you say, may you remain an authority, about the paper used as currency called (currency) note? We have many questions about it:

(1) Is currency note an asset (*mal*) itself or only a certificate like bond (*suk*)?
(2) When note has value equal to or more than the minimum scale (*nisab*) and a year passes, would *zakat* be payable on it or not?

(3) Is it permissible to stipulate note as dower (*mahr*)?
(4) Where a person steals a currency note from a place of its safe custody, would it be obligatory to punish him through amputation of his hand, or not?
(5) Where a person destroys note of another person, would he be required to give note as compensation or equivalent dirhams (silver coins) may also be given?
(6) Is sale of note for dirham, dinar (gold coin), or *fulus* (copper coins sing. *fals*) permissible?
(7) Where note is exchanged with clothes, for example, would the sale be simple sale (*bay al-mutlaq*, sale of goods for money) or barter sale (bay *al-muqaydah*, sale of goods for goods)?
(8) Is it permissible to give note as loan (*qard*)? If yes, would the repayment be mandated in the form of note or dirhams?
(9) Is it permissible to sell note on fixed-term credit for dirhams?
(10) Is *salam* (advance-payment sale) of note permissible whereby dirhams are paid in advance, for example, on the term that note(s) of particular description would be received after a month?
(11) Is it permissible to sell a note for more than its face value, for example sale of 10-dirham note for 12 or 20 dirhams or similarly for less than its face value?
(12) If the sale stated in the last question is permissible, would it also be permissible where Zayd wants to borrow 10 dirhams from Amar, and Amar says, "I do not have dirhams but I may sell you 10-dirham note for 12 dirhams on one-year installment-basis credit with the agreement that you would repay one dirham every month"? Or this transaction would be impermissible because it is a *hilah* (legal device) to receive *riba*? If the said transaction is permissible, how is it different from *riba*, and why is it held lawful (*halal*) and *riba* is prohibited although both result in excess?

Benefit us with your reply! May you be rewarded on the Day of Judgment!

Summarized Answer:

The reply to the question number (1) would determine the nature of paper money. The author initiates the reply by presenting the evidence that a currency note is a valuable asset. The difference in the face values of currency notes is discussed. The replies to these questions put the currency notes into broader context of the four kinds of assets recognized by the Hanafi jurists.

After identifying the nature of paper money, the author concludes with rulings of the Sharia by confirming, as replies to question numbers (2) to (5), that *zakat* is payable on currency note, it is permissibile to use currency note for paying dower, the punishment for the offence of the theft of currency

note is amputation of the hand of the thief if the relevant conditions are met, and the compensation for destruction of note may be paid in dirhams. The reason for this ruling of the author is that currency note is valuable asset in itself.

The reply to question number (6) details the permissibility of exchanging currency note with silver dirham or gold dinar. A popular juristic opinion about the minimum price for a valid sale has been analyzed in the context of insignificant intrinsic value of paper money. In classifying the sale of note into the type of sale transaction, the author presents the view, to reply the question number (7), that sale of currency note is not exchange of goods for goods rather it is exchange of goods for money.

The replies to question numbers (8) to (10) detail the permissibility of dealing with paper money in credit transactions. Lending of paper money is discussed at length. The most important part of the chapter is where the author presents evidence to prove permissibility of credit sale of currency notes for dirhams, and also shows evidence of permissibility of *salam* (advance-payment sale) from the books of Imam Muhammad al-Shaybani.

The reply to the question number (11) establishes that paper money can be sold for more than the printed face values. The author analyzes the ruling of a contemporary scholar Abd al-Hay Lucknawi on the subject. The later part of the reply is devoted to the usage and permissibility of *hilah* (legal device) to avoid *riba*.

The reply to the question number (12) describes a transaction where the idea gets further complicated and sale and credit of paper money is combined into a single transaction to make a financial product. After stating the permissibility of the questioned financial product, the author moves on to describe various other product development possibilities and presents proofs of permissibility of devices from the Quran and the Hadith. And Allah the Exalted knows better. (17:395)

The Relevant Annexure:
Against two wrong fatwas about paper money

Al-Zayl al-Manut li Risala al-Note (1329)

Summary:
The subject of Islamic Law concerning paper money has been one of the popular topics among Muslim jurists over the last 150 years. The opinions can broadly be classified into three views.

First view is that paper money is a certificate of gold or silver kept in government treasury. Since government is the issuer of paper money, notes represent the silver or gold lying with the central banks. This view would necessitate that *zakat* would not be payable on the currency notes because

they are not assets but an evidence of an asset receivable or due from government.

A second view is that paper money is same as equivalent silver dirhams or gold dinar. It would necessitate that injunctions about gold dinar and silver dirhams are applied to paper money. This would create a strange situation because, according to the Hanafi school of law, paper money being a countable thing does not fall within the definition of assets in which *riba* is possible.

A third view is that paper money is an asset itself. This is the view also adopted by the author. According to the jurists having this view, paper money was an asset and had gained acceptance as conventional (*istilahi*) money by virtue of customary practice among users. The author's main contribution on the subject is *The Seal of Discerning Jurist*. Subsequently, the author wrote another treatise *The Relevant Annexure* to present critical analyses and rebuttal of fatwas issued by two contemporaries, Rashid Ahmad Gangohi and Abd al-Hay Lucknawi.

The book starts with an analysis of the fatwa of Gangohi who had declared sale of currency note as forbidden and suggested *hawalah* (assignment of debt) as *hilah* (legal device) for dealing with paper money. The author not only shows the inconsistency between various fatwas of Gangohi on the subject of paper money but also presents logical and legal problems if paper money is declared a certificate.

The author then proceeds to present the problems with Lucknawi's fatwa who declared paper money same as gold and silver coins (original moneys). The author emphasizes the difference in injunctions related to original moneys and conventional moneys and contends that the same has been overlooked by Lucknawi.

The author presents his claim that the Lucknawi's stance is partially borrowed from the author's own earlier fatwa. However, he criticizes by insisting that Lucknawi had not proved the stance that excess in value in exchange of dirhams with paper money would be *riba*.

In the next section, the author points out the change in stance of Lucknawi in the same fatwa where Lucknawi claims that even if *riba* is not present in an exchange of dirham and paper money, doubt of the existence of *riba* would be present and that doubt of *riba* is also forbidden.

The final part of the book discusses another turn in stance of Lucknawi towards the end of his fatwa where Lucknawi declares the excess in value against the honesty even if legally permissible. The author goes at length to show that this new stance of Lucknawi has caused collapse of his all previous arguments.

In the epilogue, the author has narrated the juristic history of paper money and the background of his two books on the subject. (17:505)

BOOK OF GUARANTEE/SURETY (*KIFALAH*)

BOOK OF GUARANTEE/SURETY

Chapter on Surety of Person (*Kafalah bi'n-Nafs*) 383
Surety of Person supplemented by surety of financial claim 383
Chapter on Surety for Financial Claims (*Kafalah bi'l-Mal*) 385
Meaning of surety for financial claim 385
Chapter on Liability for Compensation (*Daman*) 387
Recovery by surety 387
Chapter on Guarantee by Two Persons 389
Joint Surety of Person 389

Chapter on Surety of Person (*Kafalah bi'n-Nafs*)

Surety of Person supplemented by surety of financial claim

Question: from Munshi Wahid Ali (Rampur), 7 Rabi al-Awwal 1317H. Zayd became surety of person in respect of Amar for the lender Hinda for a specified period. As per customary practice and popular understanding, he remained surety till the completion of that period. Zayd had also stated in respect of the guarantee that he would be responsible for the demand of the lender if the borrower runs away from the city before the expiry of the period.

The period has expired now and the surety of person has ended. Would the surety for the financial claim which was given in respect of it be also considered to have ended or continued? Reply and be rewarded.

Answer:
Yes, in the questioned situation, the surety for the financial claim would also end upon the end of the surety of person because the surety for the financial claim was for insisting and confirming the surety of person as a supplement. When the primary one expires, the secondary one would also stand expired. It is stated in *Dur* and *Rad*, "If the claimant discharges the guarantor from

the surety of person and borrower does not pay, it would not be obligatory for the surety to make payment because the related condition of presence of the surety of person has ceased to exist." It is stated in notes to *Hidayah*:

> When surety of person stands expired, it would be obligatory that related guarantee for financial claim also stands expired because it is not the objective itself but a supplement to the surety of person. For this reason, if the claimant discharges the guarantor from the surety of person before the expiry of the period, the gurantee for financial claim would become void.
>
> And Allah, the Exalted, knows better. (17:670)

Chapter on Surety for Financial Claims (*Kafalah bi'l-Mal*)

Meaning of surety for financial claim

Question: from Sayyid Anwar Ali (Rampur), 9 Rabi al-Akhir 1336H.
(1) Is surety for financial calim that is mortgage of house agaist a claim permissible?

Summarized Answer:
Surety for financial claims is certainly permissible according to the Sharia. However, its meaning according to the Sharia is that the surety takes up responsibility of Zayd's claim over Amar in such a manner that the claim is over Amar and Bakr both. It is stated in *Niqayah*:

> Surety is either of person, which is where the words "I am surety of his person" or "I am responsible for him," are used or for a financial claim. The surety of a financial claim would be valid even where the asset pledged is unknown if the debt is valid. For example, if the surety has said that "I am surety for the debt receviable from such-and-such person or that would be obtained by you from that sale."

There is a modern and new method prevalent among ignorant masses. This invovles a house or a shop that is mortgaged against debt receivable

from himself or another person such that the debt is recovered from the asset, and that asset is called mortgaged. The asset remains in the possession of the owner but he becomes barred from transfer of property, like sale and gift, from that time, and if he makes a transfer, the tranfer is considered void and the lender has the right to reverse it. All these arrangemnts are innovations in the Sharia and void. According to the Sharia, no right of the lender is attached to the asset, and the owner cannot be prohibited from selling or gifting it.

The Sharia has prescribed only two contracts for securing debt: suretyship and pledge. The pledge does not take place without handling over the possession of the asset to the pledgee. A pledge without possession has no legal standing. Allah the Exalted has said, "Pledge having possession." It is stated by Imam Kasani in *Badai'*:

> Allah has attributed possession with pledge. This requires the possession to be a condition in pledge so that the order of Allah remains protected from being against reality, and it is also because it is a favor and would not be beneficial without it (possession). If both of them agree in the contract that pledged asset would remain in possession of the owner, the pledge would not be permissible, so-much-so that if the asset is wasted in possession of the owner, the debt would not be discharged.

They also do not call or consider it pledge. They consider it suretyship whereas considering it suretyship is even worse than considering it pledge. A guarantee without a surety is impossible, and whereas this innovative contract guarantee is by the asset and not by the owner of the asset. Mostly these mortgages are for debts of the asset's owner himself, and no one can be surety for himself. (17:676)

Chapter on Liability for Compensation (*Daman*)

Recovery by surety

Summarized Question: from Hafiz Huzor Ahmad Khan Rampuri (Bareilly)
Upon the request of Zayd, Amar became surety of Zayd's contractual obligation of rental payment by pledging Amar's property. Zayd did not pay the amount to the government (landlord) and applied for the auction of the pledged property. Amar was forced to get his property discharged by depositing the guaranteed amount with the government and filed a claim against Zayd in civil court for recovery of the guaranteed amount paid by Amar. Zayd has presented the argument in defence that surety for financial claim is disallowed according to the Sharia whereas the same is part of the law of the land. Is the argument of Zayd valid?

Answer:
Suretyship for financial claims is certainly permissible according to the Sharia, and the argument of the defendant is void, so much so that suretyship of disallowed financial claims is valid. Moreover, where the suretyship is demanded, like the questioned situation, the surety would

certainly be entitled to recover the amount from original debtor. It is stated in *Tanwir*:

> If a person becomes surety on demand of another person, then the first person would be entitled to recover the amount from the second person after the payment. If he becomes surety without the demand, he would not be entitled to recover and could not demand until he has repaid the debt.

This is also the meaning of the law that he would be entitled to recover the paid amount from the debtor. Accordingly, the claimed contradiction in the rule of the Sharia and the law does not exist in the instant matter. (17:686)

Chapter on Guarantee by Two Persons

Joint Surety of Person

Summarized Question: from Haji Nosha Ali (Rampur), 28 Rabi al-Akhir 1334H.

Zayd holds a court decree whereby the borrower Amar was arrested and presented in the court. Bakr, Khalid and Hamid appeared in the court and wrote a surety bond with the condition that Amar would appear in the court every time he is called by the court, the sureties would present him in the court, and they would pay the decreed amount of debt if they fail in producing Amar before the court.

While the sureties were away from their houses, the court demanded presence of Amar in the court within a week. Court notices were pasted outside their houses. The sureties being unaware could not present Amar and the notice period lapsed. The lender has presented witnesses who stated that they saw the sureties in the city on the day court notice was issued. The lender has thus demanded the debt be recovered by auctioning property of the sureties to complete the purpose of the surety bond. Property of one surety was accordingly taken into custody, and the very next day the sureties appeared in the court and presented Amar, the borrower, with the excuse

that they were out of city and upon returning on the day of custody order have presented Amar in the court.

The court has sent the borrow to jail and discharged the sureties from surety of person but has kept the claim on surety on financial claim intact. In this situation, can the sureties be liable for surety of financial claim when they have already presented the borrower in the court and he is serving jail term?

Summarized Answer:
Without relying on the explanation of the questioning person, the statements of witnesses were demanded and examined. One of the seven witnesses is a Hindu and his testimony for Muslims is not acceptable. 20 deficencies (listed by the author in the reply) have been noted in the statements of the six witnesses. Even otherwise, none of the statements support the claim of the lender or prove that the sureties could not present the borrower within seven days of coming into know about the court notice. Accordingly, the sureties are discharged from both surety of person and surety of financial claims in the questioned sitation, according to the Sharia. (17:671)

BOOK OF *HAWALAH* (TRANSFER OF DEBT, ENDORSEMENT)

BOOK OF HAWALAH

Chapter on the Meaning of *Hawalah* 393
Hawalah of loan 393
Chapter on Liabilities in *Hawalah* 395
Arrangements involving *hawalah* 395
Chapter on Hundi (*Suftaja*) 397
Definition of hundi and its alternate 397

Chapter on the Meaning of *Hawalah*

Hawalah of loan

Summarized Question: from Sayyid Fakhar al-Hasan (Khairabad), Ramadan 1327H.
Zayd is a Sunni Hanafi muslim and believes on prohibition and impermissibilty of *riba* in dealings. For some unforeseen situation, Zayd was forced to borrow *riba*-based loan of 5000 dirhams from a moneylender namely Mano Singh at 12 percent per month. The lender had the following conditions written in the loan agreement:

> The loan term is one year and six months and *riba* would be payable every sixth month; in case of failure to pay the *riba* every sixth month, *riba* payable would be added in the principal amount and compound *riba* would be payable. If Zayd wants to repay the loan before the expiry of the loan period, *riba* would be charged for the entire loan term.

After one month of the loan agreement, Zayd has enough money to repay 5000 dirham as principal amount and *riba* for the loan period that he can pay to the lender to discharge the loan. However, he is worried that he has used the loan amount for a month only and is required to pay *riba* for

the entire loan period. He has discussed the problem with Mahmud and Badri Parshad.

Mahmud is of the opinion that the money be invested in a business for the remaining loan period to earn profit and the loan is repaid upon completion of the loan period.

Badri Parshad is of the view that there may be profit or loss in business and even the invested money may be wasted in case of a loss. He says that, if the Sharia permits, the aggregate of the principal amount and *riba* for one month be paid to him and a *hawalah* of the loan payable to Mano Singh be made to Badri Parshad. This would make Badri Parshad liable to Mano Singh. Bardi Parshad is of the view that since he is a moneylender, he would lend the money and accumulate the entire amount payable to Mano Singh in some time and have the loan discharged. This would save Zayd from paying *riba* for entire term of the loan and would free him from the burden of loan immediately.

Is Zayd allowed to act on the advice of Badri Parshad? If Zayd has only 2000 dirhams available and he makes *hawalah* on Badri Parshad to the extent of 2000 dirhams, would the ruling remain the same as in case of the *hawalah* of the entire amount?

Answer:

The advice to make *hawalah* of the loan is good. Zayd should give 5038 dirhams as loan to this second Hindu moneylender without the intention that the amount in excess of 5000 dirhams is *riba* to the first Hindu, and then he should make *hawalah* of loan payable to the first moneylender on the second moneylender. Zayd should legally cover himself to avoid any fraud. In this manner, Zayd would be saved from paying any *riba*. 40 or 50 dirhams paid by him would be like a bad loan or amount waived for the borrower and would not be considered *riba*.

As for the use of the money by the second moneylender for *riba*-based lending, it would be his own act (and Zayd would not be responsible for that). In fact, the second moneylender cannot lend it until someone is willing to obtain a *riba*-based loan from him. Therefore, Zayd cannot be made responsible for it. Allah has informed, "No one would bear the burden of another person." It is stated in *Hidayah*, "No doubt, the sin (in a house) is because of act of the tenant and has no connection with the landlord."

Likewise, if Zayd could do it for part of the loan, he should do it because avoiding sin and paying money in prohibited act is obligatory to the possible extent. And Allah the Exalted knows better. (17:703)

Chapter on Liabilities in *Hawalah*

Arrangements involving *hawalah*

Question: from Haji Isa Khan Muhammad (Kathiawar), 8 Jamadi al-Awla 1330H.

(1) Zayd said to Amar, "I have money receivable from Bakr; you are authorized to collect is from him and keep with him; you may use the money; and I would collect it from you when I need it." Is this arrangement permissible?

(2) Zayd sold 1000-dirham currency note to Amar for 1200 dirham on credit term of four months and got a bond executed. Later, Zayd bought 1100-dirham note from Bakr for 1200 dirham and asked Bakr to receive the 1200 dirham from Amar who owed these to Zayd. Zayd handed over the bond executed by Amar to Bakr for satisfaction. Is this arrangement permissible or not?

(3) Zayd sold 1000-dirham note to Amar for 1100 dirhams on credit on the condition to receive 100 dirhams on spot and 1000 dirhams at end of credit period, and he had 1000-dirham bond executed by Amar. Later, Zayd bought 1000-dirham note from Bakr for 1050 dirhams, paid 50 dirhams on spot and made *hawalah* of debt from Amar in favour of Bakr. He handed over the bond executed by Amar to Bakr for satisfaction. Is this arrangement permissible or not?

Answer:
(1) It is permissible. The reason is that it is to make agent for taking possession and giving loan. And Allah the Exalted knows better.
(2) It is permissible. The reason is that it is a *hawalah* and a part of consideration is against the credit period; and all of these are permissible, as stated in *Fath*. And Allah the Exalted knows better.
(3) It is permissible. This is the same as the last arrangement except that this involves some consideration as credit and some as cash paid on spot, whereas that arrangement involved entire consideration on credit. With different species and measurement standards of the counter values, these all would be permissible (as is the case here). And Allah the Exalted knows better. (17:217)

Chapter on Hundi (*Suftaja*)

Definition of hundi and its alternate

Question: from Haji Isa Khan (Kathiawar), 8 Jamadi al-Awla 1330H.
(4) What is the definition of hundi?
(5) If hundi is prohibited, is there any arrangement as per the Sharia that could bring the same benefit as hundi in a permissible manner?

Answer:
(4) Zayd deposits money with Amar as loan on the condition that the money is paid in a certain city to a certain person or Zayd himself. This arrangement is called hundi and it is impermissible and sin. Sometimes it involves an increase or decrease, which is called *mata*, and that is *riba* and prohibited.

It is not necessary that the money is given as loan. If the arrangement is such that if the money gets wasted, gets stolen or lost in some other manner while in possession of Amar without his fault and Zayd could demand a compensation, then it would be a loan even if word 'loan' is not used or word 'deposit' is used that is also used for 'bailment'. And the practice prevalent here is such that Amar would be held liable for the money and would recover compensation if it is lost in any manner. Therfore, it is established that it is a loan and not bailment because if it had been a bailment and money had not been lost without his fault, Amar would not have been made liable. The deposit at one place and receiving equivalent

money at another place is the benefit of loan. A thing under bailment is received as it is rather than its equivalent. Accordingly, it is a loan and Zayd is receiving the benefit of avoiding the risk of losing the money, if Zayd carried it with himself or sent it through someone to that other place which involved risk of loss, by lending it to Amar. Hence, it is a gain that Zayd is obtaining by extending a loan, and a gain or benefit that a lender obtains by extending a loan is *riba* and prohibited. The Prophet (peace and blessings upon him) has informed, "Every loan that brings a gain is *riba*." Therefore, hundi is impermissible. It is stated in *Rad*:

> It may be a situation in which a person lends some money to a trader to deliver it to a friend of that person. That money is not given under bailment but as a loan to get the benefit of avoiding the risks faced during travel. Another situation can be one in which a person lends some money to another person such that the borrower repays the money to lender in a city in which the lender wants it to receive, and thus the lender has the benefit of avoiding the risks faced during travel.

(5) Yes, a permissible alternate (of hundi) is possible. Rather than lending dirhams, Zayd may sell a currency note on the condition that the buyer makes a *hawalah* of the price payment to a specific trader living in a specific city such that the seller can himself or through an agent receive the payment there. This is a permissible arrangement and achieves the same objective. In this arrangement, sale for more or less than the face value of currency note would also be permissible, as I have presented the research of it in my book *The Seal of a Discerning Jurist*. It is stated in *Dur*:

> If a person sells a thing on the condition that the seller, in consideration of the price, would make *hawalah* of any of his borrowers in favour of the buyer, the sale would be void. If he sells on the condition that the buyer would make *hawalah* of the price on another person, the sale would be permissible because the condition is reasonable with respect to the contract.

It is stated in *Rad*:

> The reason for the statement of the (above) text that "because the condition is reasonable with respect to the contract" is that it strengthens the objective of the contract. It is because *hawalah* is normally made on people who are wealthy and have good reputation about payments.

However, a sale on the condition that the buyer would pay the price to the seller in such-and-such city is impermissible. It is stated in *Rad*:

> The vitiating conditions that vitiate a sale include a condition on the buyer to pay the price in some other city or the seller would gift a part of the price to the buyer rather than reducing the price because reduction gets attached to the inception of the contract.

This difference must be kept in mind to avoid a prohibited transaction.

BOOK OF AGENCY (*WAKALAH*)

BOOK OF AGENCY

Chapter on the Meaning and Types of Agency 401
Nature of agent's rights 401
Chapter on Agency for Purchase or Sale 403
Money received for distributing books among students 403
Chapter on Agency for Litigation 405
Prevalent litigation practice 405

Chapter on the Meaning and Types of Agency

Nature of agent's rights

Question: from Bashir Muhammad Khan (Bulandshahr), 5 Shaban 1329H. Where an agent who has been given general authority waives a right on someone and he has the authority to waive rights, would he be entitled to receive the waived amount according to the Sharia, or not?

Answer:
If the principal had expressly given the authority to waive, then the waiver by the agent would be same as the waiver by the principal. As the principal cannot reverse the waiver, the agent's waiver would also be not reversable and he would not be entited for the amount. If he had been given general authority or the principal had said "his every act would be similar as if it has been carried out by me," then the agent would not have authority to waive and he may take the waived amount if the principal disagrees with the waiver. It is stated in *Dur*:

> It must be clear that an agent who has been given general authority would be authorized for non-gratuitous contracts, and he would not be authorized for divorce, *ataq* and *tabarrat*."

It is stated in *Bazzaziyyah*:

"You have my authority in all permissible matter" would make the agent authorized for safe custody, sale and purchase and not for *ataq* and *tabarrat*; and fatwa is to be issued according to this rule.

And Allah the Exalted knows better. (19:94)

Chapter on Agency for Purchase or Sale

Money received for distributing books among students

Question: Shaykh Ghulam Ahmad (Meerut), 4 Ramadan 1315H.
Certain individuals gave some dirhams to Zayd for buying religious books and giving to students. Zayd already had those religious books. He took the books at market rate and distributed among the students and kept the money with him as price of the books. He tought that he has made a sale and has bought the books as an agent. As per the situation, the people who gave money had no intention that the books be bought from the market so they did not make it a condition in the arrangement. Their objective was the distribution of books which Zayd has ensured. Now, the question is whether the books have been distributed by them or not? If not, what should be done now? The books cannot be returned as the students cannot be identified as a long period has passed, the matter came under doubt now and the money has also been spent. Reply and be rewarded.

Answer:
In the questioned situation, Zayd neither had the right to do so nor the sale has taken place with the people who gave the money. The reason is that a

single person cannot be the agent in non-gratuitous arrangements, like sale, for both the seller and the buyer, unlike a marriage contract where he can. Therefore, the books given away were his own, and he must return the money to the people who gave the money to him. It is stated in *Dur*:

> A person made agent for selling, buying or *ijarah* cannot make contract with persons in respect of whom his testimony is not acceptable. However, he may do so where the principal has given a general authority to him, for example, by saying that the agent may make sale with whosoever he wants. In that situation, the agent may make contract with them at market rate. It is stated in *Sirajiyyah*, "If the principal expressly permits contracting with such persons, the sale would be permissible, according to the consensus (of our jurists)."

It is stated in *Rad* with reference to *Minh al-Ghaffar* from *al-Siraj al-Wahaj*, "If the principal permits selling to such persons, the sale would be permissible, according to the consensus (of jurists). However, sale for himself is not allowed at all, even if the principal has expressly permitted it." And Allah the Exalted knows better. (19:93)

Chapter on Agency for Litigation

Prevalent litigation practice

Question: from Muhammad Nasr Allah (Lahore), 21 Moharam 1339H.
Is the profession of legal practitioners permissible according to the Sharia, or not? Reply and be rewarded.

Answer:
The legal practice as it is prevalent, which involves making effort to prove right as wrong and wrong as right, telling clients that your case would not strengthen if they want to tell truth, arranging false testimonies and having untrue oaths, is absolutely prohibited. A legal practice can flourish with such acts in this era. A legal practitioner who accepts a client only after complete investigation and identifying the client as right, supports the right, neither lies nor asks to lie, cannot continue his practice in this era. And Allah the Exalted knows better. (19:95)

BOOK OF *DAWA* (LAWSUIT/CLAIM)

BOOK OF LAWSUIT/CLAIM

Chapter on the Nature of the Claim, Plaintiff and Defendant 409
Maintainability of a claim 409
Chapter on the Oath (*Yamin*) 411
Admissibility of a witness in contrast an oath 411
Chapter on Mutual Oaths by Parties 413
Oath by plaintiff after defendant's counter claim 413
Chapter on Claims and Possession 415
Claim over deceased's property in possession of his wife 415

Chapter on the Nature of the Claim, Plaintiff and Defendant

Maintainability of a claim

Question: from Munna Bhai (Rampur), 17 Dhilhajjah 1315H.
Upper floors of Zayd's house have many balconies out of which two are newly constructed whereas all others are old. The house of Hinda is located opposite to that of Zayd at a distance of 70 feet. Between their houses, there is a wide road and an abandoned building. Hinda has filed a lawsuit for the claim to shut five out of all the balconies or construct a wall in front of these on the ground that these are breaching her privacy. Out of the five, two balconies are new as stated above and the remaining are old, as evident from the testimonies.

The real reason for the breach of privacy is that another house of Hinda that ensured her privacy has been demolished on instruction of Hinda. The new balconies, other balconies of Zayd's house and the people who travel on the road through motor vehicles, elephants, camel and others are equal in breach of her privacy. Zayd has told Hinda that his houses worth thousands of dirhams would be destroyed whereas her privacy can be secured by raising the walls by 10 to 12 inches from different sides and he can bear the cost of raising the walls if the cost is a burden for Hinda.

In this situation, does Hinda have a right to prevent Zayd from benefiting from his house by shutting the balconies, according to the Hanafi school?

Summarized Answer:
In the questioned situation, the lawsuit of Hinda is wrong and not maintainable. The real opinion of the imams of Hanafi school according to *Zahir al-Riwayah*, correct and for issuing fatwa is that every person has an unconditional right to enjoy his property, and another person cannot disturb the enjoyment of an owner in his property for his (another person's) gain or loss.

Some later jurists have issued fatwa with opposite view but they have clearly expressed that their fatwa would be applied to a situation where the owner's action would result in severe damage to house of another person, for example destruction of house or rendering the house useless.

In the given situation, if it is assumed that Hinda is facing a problem that has resulted into her house becoming useless, the problem has not been caused by the balconies because the balconies are old, how has Hinda used her house till now? In fact, the problem has been caused by destruction of the wall on the order of Hinda. Where she adopts a course that creates problem for her, she cannot proceed with a claim againt another person, otherwise she would be claiming closure of the road for breach of her privacy if she decides to reduce the height of the walls of her house by one or two yards.

If such lawsuits are maintained, a woman living in middle of a locality can create problem for every house of the locality by reducing the height of the walls of her house and claim that her privacy is being breaches by the sitting areas of all the surrounding houses and therefore should be shut or closed through walls. No one would be able to stop her from reducing the height of the walls as she would tell them that she would be entitled to do anything to her property. And what would be the fatwa of mufti and decision of qadi after she does so and her loss of privacy is evident from the balconies? Would the claim of Hinda based on the self-created problem be admissible or she be required to ensure her privacy especially where Zayd has offered to borne the cost of raising the walls? And Allah the Exalted knows better. (18:207)

Chapter on the Oath (*Yamin*)

Admissibility of a witness in contrast an oath

Question: from Wilayat Husayn (Haldwani), 6 Jamdi al-Akhira 1313H. Zayd kept his assets with Bakr under bailment. Upon Zayd's demand, Bakr refused to give the assets. Zayd filed a lawfuit for cash and jewelry and presented witnesses before the court. Bakr is willling to take the oath as per Sharia for the refusal. Where witnesses in favor of plaintiff are present, would Bakr have the right to take the oath if evidence from the plaintiff are present?

Answer:
In the questioned situation, Bakr's plea would not be admissible if he intends to take oath on his own. If he proceeds to take oath, the claim of the plaintiff would not be affected. Zayd also does not have the right to demand oath by Bakr and the oath would not be admissible even in that situation. Oath of defendant would be admissible where plaintiff fails to present admissible evidence. It is stated in *Dur*:

> If parties to a lawsuit agree to take oath before a person other than qadi for acquittal, the oath would be void because the allowing taking an oath is the right of a qadi on demand of the opposite party; oath or denial of oath before a person who is not qadi is not reliable.

It is also stated in it, "An oath is secondry to a testimony, and primary (evidence) removes the need of secondry (evidence)." And Allah the Exalted knows better. (18:289)

Chapter on Mutual Oaths by Parties

Oath by plaintiff after defendant's counter claim

Question: from Saddan (Rampur), 4 Shaban 1331H.
Allah-Din owes 2 dinars worth 30 dirhams to Bhoray. Upon demand, he said that he had repaid these in presence of Abd al-Karim, Nur Muhammad and Nasoh. All three of them unanimously deny that he paid these in their presence and that Allah-Din is saying incorrect. Upon noting the opposition by everyone and that his lie is exposed, Allah Din agreed that he would pay the 30 dirhams at the time of account clearance. He made this acknowledgement before Chadda, Kallan and the above-stated persons. However, he again refused to pay at the time of account clearance and retracted the acknowledgement. He is willing to take oath that he had made payment before the three individuals and would not pay again.

In this situation, where he acknowledges the liability to pay 30 dirhams before the witnesses and then refuses, would his refusal after the acknowledgement be admissible or the earlier acknowledgement testified by the witnesses be binding? Would Allah-Din be liable to pay 30 dirhams to Bhoray, or not? Reply and be rewarded.

Summarized Answer:
The act pertains to our religion and the matter is related to human rights.

Previously, Bhoray visited me and questioned as to whether oath taken by Allah-Din was admissible. He was given the reply that if Allah-Din claims repayment and has acknowledged the debt by claiming to have repaid, he would be the plaintiff and Bhoray would be the defendant. The oath of the plaintiff is not admissible and he would provide evidence of the repayment through witnesses. If he fails to provide evidence in this manner and demand the oath of Bhoray, Bhoray would be asked to take oath that Bhoray has not received the amount and his claim exists. If Bhoray refuses to take the oath, he would not receive anything. If Bhoray takes the oath, decision would be passed in his favor.

As far as the witnesses presented by Bhoray that the repayment has not been made are concerned, they are not reliable because testimony is denial and presenting witness on denial is not admissible. It would be meaningless to insist that there is no need of oath in presence of witnesses because neither Bhoray is required to present the witnesses nor Allah-Din is required to taken oath. And Allah the Exalted knows better. (18:482)

Chapter on Claims and Possession

Claim over deceased's property in possession of his wife

Question: from Ghulam Qadir Bayg (Mandla), 25 Dhil Hajj 1315H.
Zayd's property was in possession of his wife Hinda. He died leaving Hinda and Amar, maternal grandson of his sister, as his heirs. Hinda remained in possession of the property after Zayd's death. Hinda subsequently gifted a part of the property to his nephew Khalid and had the documentation to this effect registered in Khalid's name. She also distributed some property among her sister, a daughter of a deceased sister and her two newphews and had the documentation registered in their names. Hinda has died.

Can Amar make a claim for the property of the deceased, and who is entitled to receive the property according to Sharia? Reply and be rewarded.

Summarized Answer:
If being a sane, adult and one having knowledge of the actions of Hinda related to the deceased's property, Amar remained in the city and did not file a claim, his claim would not be admissible after death of Hinda because his silence despite knowing the actions of Hinda related to the property are valid argument that Amar had no right on that property.

If he was insane, minor or out of city and has now become sane, adult or knowledgeable, then his claim would still be inadmissible if the property

was in possession of Hinda as consequence of a gift by Zayd or in settlement of her dower. And Allah the Exalted knows better. (18:212)

BOOK OF TESTIMONY (*SHAHADAH*)

BOOK OF TESTIMONY

Chapter on the Meaning and Grades of Testimony 419
Opinion of expert 419
Chapter on Direct and Indirect Testimony 421
Testimoney of acknowledgement 421
Chapter on Admissible and Inadmissible Testimony 423
Definition of a witness and admissible testimony 423
Chapter on Change or Retraction (*Ruju*) of Testimony 425
Effect of change of testimony on maintainability of case 425

Chapter on the Meaning and Grades of Testimony

Opinion of expert

Question: from Nisar Allah Khan (Rampur), 21 Shaban 1331H.
Zayd who is a Muslim physician has issued a puberty certificate to Amar stating that Amar's present age is apparently between 18 and 19 years. In my opinion, Amar does not appear to be that old from his face etc. His moustache's growth has justed started. Therefore, the physician's certificate which is like a testimony about a period that was not observed by the physician and he has merely informed about the age based on his analogy and opinion. He has expressed his opinion and there is possibility of mistake in opinion. In this situation, would his testimony be admissible in court, or not?

Answer:
The opinion neither has anything to do with testimony nor does it fit the definition of a testimony. This is an opinion, analogy and estimate on which he himself has no trust and states the possibility of mistake in it. The standard of testimony is such that where an eye witness testifies and uses the words 'it happend in my view' or 'such is in my knowledge,' then the

testimony would be rejected because the witness has been asked about his observation rather than his knowledge or his belief, whereas there is no knowledge or belief rather there is acknowledgement of the potential of mistake in the questioned situation. It is stated in *Dur*, "So much so that if witness includes the words 'that is in my knowledge' in testimony, the testimony would be rejected on ground of doubt." It is stated in *Rad* from *Bahr*:

> If he says, "So-and-so man has 1000 dirhams receivable from me as per my knowledge, the acknowledgement would not be valid." If a person testifiying truthfulness of another says, "He is truthful as per my knowledge, it would not be testification of the truthfulness."

And Allah the Exalted knows better. (18:122)

Chapter on Direct and Indirect Testimony

Testimoney of acknowledgement

Question: from Abu Muhammad Yosuf Husayn (Sapor), 20 Dho al-Hajj 1333H.

Zayd has died, and his brother Amar and wife Hinda are alive. Hinda has filed a claim for the property. Amar wants to prove that marriage (Zayd with Hinda) did not take place. From side of Hinda, the marriage administrar has testified that he administered the marriage contract. Hindi's sister, Fatima, has also testified that the marriage took place. The witnesses of marriage deny the marriage contract for the reason that they are employees of Amar. However, there are a lot of people before whom Zayd acknowledged the marriage who testify that Zayd acknowledged the marriage before them. In this situation, would Hinda be entitled to the deceased's properties? A situation is described in *Fath* that is quoted here for review as it merely shows that testimony on acknowledgment of spouse is valid:

> If one of the spouses denies marriage contract or a condition of it, then in case of the deniel by husband where wife presents witnesses of marriage or acknowledgment by husband, their testimony would be admitted and the deniel of the husband would not be considered divorce.

Answer:
The said testimony of the marriage administrator is not valid because that would be testifying his own act and a person's testimony of his own act is not admissible, as stated in *Khazana* and other legal texts. Her sister is only witness that makes up half witness. However, if two acceptable witnesses of the husband's acknowledgment are willing to testify, it would be a sufficient proof because heirs of husband are like him, acknowledgment of husband is evidence over the husband and the quoted text of *Fath* is enough for that purpose. And Allah the Exalted knows better. (18:136)

Chapter on Admissible and Inadmissible Testimony

Definition of a witness and admissible testimony

Question: from Bashir Muhammad Khan (Dolatpur), 5 Shaban 1329H. What is the definition of a witness and which testimony is admissible according to Sharia? Please reply in detail.

Answer:
A witness is the one who testifies in a court session with the words "I hereby give testimony" informing to prove a right. For admissibility of a testimony, the witness must be sane, adult, have correct memory, active and capabale of raising allegation through his testimony over the defendant, and that in the same testimony he is not blamed for being a relative, parent, spouse, enemy etcetera of the plaintiff. Testimony of a person of bad conduct (*fasiq*) is also liable to be rejected and one who admits it would be committing a sin. Details of it are given in legal texts. It is stated in *Dur*:

> (Testimony is) informing about a fact in a session before a judge to prove a right with the word 'testify' and the conditions include that the witness is sane, adult, having correct memory, having guardianship over the defendant, and the witness must be a Muslim where the defendant is a

Muslim. The witness must not be a relative of the party for which he is testifying through birth or marriage and also does not have any worldly enemity. The witness must not have benefit of avoiding a compensation or availing a gain.

And Allah the Exalted knows better. (18:93)

Chapter on Change or Retraction (*Ruju*) of Testimony

Effect of change of testimony on maintainability of case

Question: from Abd al-Rauf Khan (Rampur), 13 Dhiqaddah 1315H.
Zayd bought a house which contained a gallery at the end. When Zayd filed a case against Amar that the house was written, in line with the sale agreement, as having a gallery. Amar also accepted the same. During the case proceedings, Zayd has come to know that Bakr closed the gallery and extended house construction over it before retraction from the claim. Zayd presented a question before the qadi with the question that Bakr has contructed the house before retraction of the claim which Zayd had not seen before retraction of the claim and now he has seen it. Would the case remain maintainable despite the change, or not? Reply and be rewarded.

Answer:
Yes, and the claim would not contain any defect. It is stated in *Jami al-Fasolin* by referring to Shaykh al-Islam Sarakhasi:

> If there is a mistake by witness in testimony about demarcation and then he corrects the mistake and testifies for rectification, the testimony would be admitted if both the statements can be reconciled. He may correct in

the same session or another session. The reconciliation may be, for example, 'the demarcation is by so-and-so and that he has afterwards sold his house to someone else which I did not know' and 'the name of person having demarcation is so-and-so' and later says, 'his name is this second one and I did not know' and so on. You should understand this. This relates to witness who omitted any details of demarcation or made a mistake. Therefore, if the plaintiff does so in this plaint, the injuction would be same as that for a witness.

And Allah the Exalted knows better. (18:206)

BOOK OF *IQRAR* (ACKNOWLEDGEMENT /CONFESSION)

BOOK OF ACKNOWLEDGEMENT/CONFESSION

Chapter on the Nature of Acknowledgement 429
Estoppel 429
Chapter on Acknowledgement by the Terminally Ill 431
Acknowledgement about dowery 431

Chapter on the Nature of Acknowledgement

Estoppel

Question:
Zayd acknowledged an action before the qadi and had confessed it. Now he denies his action. Would his denial be acceptable or not? Reply and be rewarded.

Answer:
In the questioned situation, Zayd would be responsible for his confession and his denial would be rejected. It is stated in *Hindiyyah*, "If the person making the gift acknowledges although the slave is in his custody, he would be liable and responsible for his acknowledgement." Moreover, it is stated in *Ashbah*, "Where one confesses a thing and then claims the confession as a mistake, the claim would not be admissible, as stated in *Khaniyyah*." And Allah the Exalted knows better. (19:97)

Chapter on Acknowledgement by the Terminally Ill

Acknowledgement about dowery

Question: from Molvi Hakim Muhammad Abd Allah (Gorakhpur), 29 Rabi al-Akhir 1307H.

Zayd acknowledged, during his terminal illness, before a group of well-reputed individuals, about dowery of his wife and said that he had 50 thousand dirhams payable to his wife as dowery and that he was authorizing his wife to recover the same from his moveable and immovable assets. She later took possession of all the assets. His heirs are different in their opinions. Most of them accept his acknowledgement whereas some say that the claim of acknowledgement is incorrect and that the dowery was not as much. Is his acknowledgement reliable according to the Sharia, or not? Is the amount of dowery as per his acknowledgement requires evidence according to the Sharia, or not? Is the possession of assets by his wife for recovery of the dowery valid according to the Sharia, or not? Reply and be rewarded.

Summarized Answer:
The reality is that acknowledgement during terminal illness in favor of a heir is not reliable without confirmation of other heirs. However, if marriage is well-known, the acknowledgement would be valid and acceptable to the extent of *mithli* dowery. The reason is that *mithli* dowery is obligatory for marriage contract, as stated in *Hidayah* and other legal texts. Therefore, the evidence of marriage is sufficient to prove it and therefore the right of the woman to this extent is verified. (19:98)

BOOK OF DUTIES OF JUDGE (*ADAB AL-QADI*)

BOOK OF DUTIES OF JUDGE

Chapter on Qualifications of Qadi 435
Requirements for a qadi 435
Chapter on Assumption of Office, Judicial Conduct and Decorum 437
Invitation for meals or gifts 437
Chapter on Rules for Additional Functions 439
Binding nature of the regulations and instructions by government 439
Chapter on Arbitration 441
Effect of decisions by a local jury (*panchayat*) 441
Chapter on Miscellaneous Issues 443
Giving of the Highly Praised: On customary authority and authority by Sharia 443
Chapter on Adjudicating Cases of Inheritance 445
The Correct Decision: On analysis and injunctions for an inherited property 445
Chapter on Standard to be Observed in Certain Judicial Cases 447
Situation where appeal agains as decision is maintainable 447

Chapter on Qualifications of Qadi

Requirements for a qadi

Question: from Yaqub Ali Khan (Ujayn), 13 Ramadan 1311H.
India does not have a Muslim king now. There are Muslim rulers (nawabs) in some states of India but they are not authorized to issue decisions according to the Sharia. The position of qadi is since vacant and individuals appointed as qadis lack knowledge and hardly any of them is wise. Given these reasons, would a Hindu qadi and rulers have special and general authority, or not? If the reply is in negative, who should be designated as Sharia-recognized qadi to have the authority? Regards.

Summarized Answer:
The officials appointed as judges for cases in Muslim states by Muslim rulers are Sharia-recognized qadis. The permissible powers entrusted to them by the rulers of Muslim states are the Sharia-recognized powers, even if the states are under rule of non-Muslims.

The ignorance of qadis does not contradict the position of qadi because an ignorant person may perform the role of qadi by seeking guidance in the form of fatwas from ulema. This also applies to a person who is not truthful or even has bad conduct (*fasiq*) although appointing a person of bad conduct (*fasiq*) as qadi is an act of sin.

However, in matters related to Muslims and guardianship of Muslim minors, the qadi must be a Muslim because Hindus and other non-Muslim have no authority over Muslims. And Allah the Exalted knows better. (18:174)

Chapter on Assumption of Office, Judicial Conduct and Decorum

Invitation for meals or gifts

Question: from Sayyid Muhammad Zahid (Bilgram), 4 Jamadi al-Akhir 1311H.
(1) Zayd is an governmental administrator for a region appointed by the ruler. He is not ruler himself so that he could issue order or make a final decision in matters. In this situation, if Bakr who is local of that region invites Zayd for meals or gives a gift to Zayd without any demand or pressure from Zayd and in line with custom and good manners, would such invitation or gift be considered a bribe or not and permissible or not?

Summarized Answer:
It would not be permissible for a person to receive gift of any type or a special invitation if he has power or authority, by himself or under delegation from the ruler, that gives him dominance over public even if he does not pressurize, use power or exceed his authority, and even if he is not authorized to make a final or interim decision like those made by a patrolman, police officer, landlord for cultivators, revenue officer, land officer (*patwari*), or head of a local jury formed to decide communal cases.

A special invitation would be one where the event would not be organized if he refuses to attend it.

There are three exceptions to the above. First is from his own boss who is not under his pressure and where there is no doubt that the invitation or gift is for any relaxation in the matters related to him. Second is from a person who was used to invite or give gifts to him before the receiver joined the position provided that the level and extent is the same as previous. Third is from his close relatives, like parents, children and siblings. And Allah the Exalted knows better. (18:169)

Chapter on Rules for Additional Functions

Binding nature of the regulations and instructions by government

Question: from Wahid Ali (Rampur), 19 Rabi al-Akhir 1319H.
Are the regulations and instructions issued by caliph or a sitting judge for decisions and withdrawal of cases binding on governor according to the Sharia, or not? Reply and be rewarded.

Summarized Answer:
The ruler of the country, the Sharia-reconized governor or a high-designatory officer appointed by them, like a chief justice, who has been authorized to appoint individuals on judicial positions under his signature, in sum an appointment that make a governor a Sharia-recognized governor and has power to decide cases without consent of the parties to a matter, then where such a person has stated the conditions for judicial decisions while appointing a governor, or a sultan or sultan's authorized representative, having authority to introduce the regulations, has specified the regulations for decisions and withdrawal of cases, it would be binding upon that appointed governor or all the governors of the state, as the case may be, to follow those regulations. Any decision against such regulations

would be void, of not effect and unauthorized. And Allah the Exalted knows better. (18:235)

Chapter on Arbitration

Effect of decisions by a local jury (*panchayat*)

Question: 13 Jamadi al-Awla 1322H.
There was a dispute between Zayd and Amar. With their mutual consent, local jury (*panchayat*) decided the matter between them. However, an order of court in support of the decision was not obtained. They again had dispute, and the jury again decided with their mutual consent. This second decision was also not implemented through law resulting in the parties having right to deviate from the decision so much so that the matter landed into court. Now the local jury has decided the matter for the third time. What should the jury do for the earlier decisions, do those decisions exist or stand cancelled? Reply and be rewarded.

Summarized Answer:
Until parties mutually agree that the matter would be decided by arbitrators or local jury, both the parties have the option to deviate from the decision. However, where they have agreed for decision making by arbitrators, the decision would be binding on the parties and none of the parties can deviate from it. It is not necessary that the decisions by arbitrators are enforced through court. Therefore, the decisions made cannot stand cancelled because of deviation by the parties. The jury should consider if the decisions

are according to the Sharia and in line with the Hanafi school of law, the same must be upheld by the jury because opposing a decision which is according to the Sharia would be opposition of the Sharia, and no one is authorized to make decision in contravention of the Sharia. If both the earlier decisions were in contravention of the Sharia, it would ba duty of the jury to decide the matter according to the Sharia. And Allah the Exalted knows better. (18:278)

Chapter on Miscellaneous Issues

Giving of the Highly Praised: On customary authority and authority by Sharia

Al-Hiba al-Ahmadiyyah fi al-Wilayah al-Shariyyah wa al-Urfiyyah (1333)

Summarized Question: from Qari Abd al-Rahman (Golra), 7 Jamadi al-Akhira 1333H.
Can a non-Muslim be the judge (qadi) for Muslims?

Summarized Answer:
(1) In reality, authority to enforce (*wilayah majbarah*), which is defined as enforing decision on a person whether he accepts it or not, is of two types. One type is customary or worldly as excercised by a king over masses or rulers over the people under their rule. For this reason, they are called rulers of the country. The other type is as per Sharia, which is for Almighty Allah in reality and then for his Prophet Muhammad (Allah's peace and mercy upon him) as given to him by Almighty Allah, and then for those who have been given it by the Prophet, through interpretation and use of delegated authority, to the specified extent, general or specific.

(2) Both the types of authorities have numerous consequences resulting from differences in aims, results, requirements and objectives.

(3) The difference in the two types of authorities shows that first type is available to the state, Muslim or non-Muslim, across the country, it is also the objective of the rulers, and disputing it is considered opposing the ruler. The second type of authority is meaningless for a non-Muslim ruler and, for centuries, even for Muslim rulers whose objective has been to have first type of authority to enforce their decision even when these decisions are not in line with the Sharia.

(4) The Sharia has not instructed about the customary authority (the first type) that results in a person becoming the ruler and public is required to obey him. The Sharia has not required that he be a Muslim or non-Muslim, just like it is not so required as per custom. Therefore, even a non-Muslim king certainly can be a ruler and have the first type of authority. However, the second type of authority that results in decision as per Sharia and impacts his divine reward or punishment is specific to Muslims. The Shaira does not permit intervention of non-Muslims into religious injunctions of Muslims. In fact, the authority as per the Sharia is further restricted so much so that sultan (Muslim ruler) over Muslims in his own country does not have the authority as per the Sharia in numerous matters. An example of this is marriage of minors in which marriage on instruction of sultan or qadi is not effective but that on instruction of Sharia-recongnized guardian is effective.

(5) The objective (of using authority) is sometimes presence of a thing and other times it is application of the injuction of Shaira. Cases filed before a judge are of both types. Mostly these relate to the first type requiring enforcement (of a right). Examples include where Zayd has occupied property of Amar, where Zayd is not repaying debt to Amar, where Zayd has sold a thing but is not deliverying it, where Zayd has bought a thing but is not paying the price etc. In all such general situations that are required to be settled through court cases, the provision of right to a right holder and protection of a person from transgression requires authority of first type because the Sharia-recognized right is already present. Second type relates to a public decision as per Sharia. This would require the authority as per the Sharia, and this authority is excercised by those who have been authorized by the Sharia in different matters. Therefore, in the second type rulers in general and even Muslims rulers are not the authority in every case. And Allah the Exalted knows better. (18:511–566)

Chapter on Adjudicating Cases of Inheritance

The Correct Decision:
On analysis and injunctions for an inherited property

Ansah al-Hukuma fi Fasl al-Khusuma (1321)

From Hakim Abd al-Aziz Bayg, 5 Dhiqaddah 1320H/ 4 February 1903.
Summarized Question-1:
(1) Does the plaintiff, Sayyid Afzal, have any right over house number 1? (2) Was the gift of house number 3 by Sayyid Amir Ali to Qadiri Begum made? If yes, what would be the impact of it? (3) Does Sayyid Muhammad Afzal, a party to the case, have any right over houses number 3, 4 and 5? How should the property be distributed?

Summarized Answer:
(1) Sayyid Afzal Husayn does not have any claim over any of the disputed houses. (2) Sayyid Muhamad Afzal has no right over residential house number 1. (3) Half of three-fourth of the sold part of house number 3 is in ownership and half of one-fourth of pledged part is under pledge of Sayyid Muhammad Afzal. (4) House number 4 related to Abd al-Karim Khan is

under pledge of Syed Muhammad Afzal and Muhammad Ahsan Khan. (5) House number 5 related to Ahmad Husayn Khan has been agreed to be in ownership of Sayyid Muhammad Ahsan and Sayyid Muhammad Afzal ceases to have any right over it. (6) House number 2 related to Muhammad Buksh has been agreed to be in ownership of Sayyid Muhammad Afzal and Muhammad Ahsan ceases to have any right over it. And Allah the Exalted knows better. (18:255–77)

Chapter on Standard to be Observed in Certain Judicial Cases

Situation where appeal agains as decision is maintainable

Question:

A woman who herself is not angry with her husband but her father is angry with her husband and wants her to be divorced by him and wants her to marry a rich person. The woman is living with and is in custody of her father. Her father, as her representative, has filed a lawsuit that the husband divorced her. The statement of the woman has not been recorded in the case. The husband has denied to have divorced her.

The witness presented from the side of the woman are all unreliable and are relatives of her father, and their testimonies appear to be fake and fabricated on which the court has noted that their testimonies do not contain a doubt of truth and are doubted as being lies.

The witnesses presented from the side of the husband, against the claim of divorce, are all pious, regular in worship, respectable and head of their communities. The court ordered that there is no evidence of divorce. An appeal has been filed in court from the side of woman. Is it better that the court upheld the order of the first court or order the existence of

divorce? What is correct decision according to the Sharia? Reply and be rewarded.

Summarized Answer:
I have seen the first decision and the appeal in this case. The first court declined the claim of divorce for the issues in testimonies by witnesses from the wife's side. The decision in appeal has set aside the decision of the first court on the ground that, as per state's regulations, mere oath by the witnesses is sufficient for accepting their testimonies, and that the defendant remained silent while the appellant took the oath on the Quran.

No one has the right to follow a regulation that contradics the injunctions of the Sharia. According to the Sharia, the appeal was not maintainable. The original decision was made by a ruler, wiseman and man of integrity. An appeal against such decision can only modify the decision if the first decision has an obvious mistake about which there is not doubt. And Allah the Exalted knows better. (18:130)

BOOK OF SETTLEMENT (*SULH*)

BOOK OF SETTLEMENT

Chapter on the Meaning and Types of Settlement 451
Effect of a settlement 451
Chapter on Estate of the Deceased and Settlement 453
Taking a part of deceased's estate in settlement 453

Chapter on the Meaning and Types of Settlement

Effect of a settlement

Question: from Taj Muhammad (Gojar Khan), 15 Moharam 1339H.
Does settlement relate to right of person only or right of person and right of Allah both?

Answer:
If the settlement is with free consent, then it would also be acceptable before Allah. However, if the settlement is under coercion, it may be acceptable for worldly purpose, but the claim would be dealt as unresolved on the Day of Judgement. And Allah the Exalted knows better. (19:128)

Chapter on Estate of the Deceased and Settlement

Taking a part of deceased's estate in settlement

Summarized Question: 18 Jamadi al-Akhira 1305H.
Kallu died leaving behind two wives (Rina and Manna), Manna's daughter (Sughra), two brothers (Chuttan and Abd-Allah) and three sisters (Choti, Maloki and Sina) as heirs and the following estate: 1400 dirhams cash, some grains and 175 dirhams receivable from a borrower. Abd-Allah took 100 dirhams cash and settled with other heirs that he would have no connection with the deceased's estate now. Is this settlement valid?

Summarized Answer:
In the questioned situation, the decision of Abd-Allah is void for two reasons.

(1) The deceased estate includes a loan receivable. He has settled disregarding the remaining estate which comprises the available assets as well as the loan receivable whereas every settlement on a loan without the lender and the borrower is void.

(2) The share of Abd-Allah in the cash assets is more than the settlement amount. The reason is that, for example, taking away two parts

from 1400 dirhams cash, the share of Abd-Allah would be 150 dirhams whereas he has received only 100 dirhams; accordingly, the rest of the heirs bought more than 150 dirhams for 100 dirhams; and this is prohibited and *riba*. And Allah the Exalted knows better. (19:119)

BOOK OF *MUDARABAH* (PROFIT SHARING)

BOOK OF MUDARABAH

Chapter on Meaning of *Mudarabah* and its Validity 457
Structure of a *mudarabah* contract 457
Chapter on the Terms of *Mudarabah* 459
Various terms of a *mudarabah* contract 459
Chapter on Authority of the *Mudarib* 461
Expenses incurred by the *mudarib* 461
Chapter on Dispute Between the Parties 463
Recovery from third parties 463

Chapter on Meaning of *Mudarabah* and its Validity

Structure of a *mudarabah* contract

Question: from Muhammad Siddiq Bayg (Shahjahanpur), 25 Moharam 1339H.
Money is invested with a Hindu for business with the term that profits would be distributed equally. I have done so in past too. Is it permissible?

Answer:
This method is called *mudarabah*. It is also permissible with Muslims. However, the condition of (not participating in) loss would be prohibited, but such a condition would be permissible in agreement with a Hindu. The reason is that, where the agreement is with a Hindu, the agreement would be a vitiated agreement and the Hindus here are neither *dhimmis* nor *mustamin*. And Allah the Exalted knows better. (19:129)

Chapter on the Terms of *Mudarabah*

Various terms of a *mudarabah* contract

Summarized Question:
Should investor (*rab al-mal*) and *mudarib* decide about the profit ratio at the time of investment or after earning the profit, with mutual consent? If it is decided at the time of investment, should it be in the same session and would it be disallowed if it is decided in another session?

Summarized Answer:
The determination of profit ratio of *mudarib* in the contract is required. If contract is made without deciding the profit ratio, for examply by saying that you are appointed as *mudarib* on the condition that you would pay some profit to me or on the condition that you would be paid profit as deemed appropriate, then the contract would be vitiated and prohibited.

In fact, even where the investor says, "I have entered into *mudarabah* contract on the same profit ratio as in the *mudarabah* between Zayd and Amar;" and one of the parties to the contract does not know that ratio, the contract would be vitiated, even if the other party knows it.

Yes, if they decide it or come to know it in the same session, it would become permissible, because a session comprises of all discussions taking place in it. Upon change of the session, the vitiation would become

permanent and the sin would become unavoidable. All these matters are clearly stated in Hanafi legal texts. It is stated in *Dur*:

> It is a condition in *mudarabah* to decide a profit ratio, and the *mudarabah* would be vitiated if an amount of profit is fixed; and it is also a condition that profit-sharing ratio of both the parties is known at the time of the contract.

It is stated in *Hindiyyah*:

> If a person invests 1000 dirhams with another person under *mudarabah* with the condition that the profit ratio would be the same as in the *mudarabah* between such-and-such persons, then the *mudarabah* would be permissible if the investor and *mudarib* know the ratio, and the *mudarabah* would not be permissible if both or one of them do not know the ratio, as stated in *Muhit*. If the investor gives money to another person under *mudarabah* with the condition that the *mudarib* may give such amount of profit to the investor as the *mudarib* may deem appropriate, then the *mudarabah* would be vitiated, as stated in *Mabsot*.

And Allah the Exalted knows better. (19:134)

Chapter on Authority of the *Mudarib*

Expenses incurred by the *mudarib*

Question: from Abd al-Qadir Muhammad Fadal (Gujrat), 13 Rabi al-Awwal 1338H.

Zayd and Amar agreed for trading business in the manner that Zayd would be the investor and Amar would be the *mudarib*. Amar started the business and earned profit. Both of them accepted the profit share as per the agreed ratio after accounting. Subsequently, Amar included his share of profit in the investment of Zayd in the business and got busy in the business. Amar incurred expenses for his meals, dressing, gifts and charity, and *Hajj* and *ziyarah*, and this all were incurred without the permission of his partner. The business did not earn a profit and there is a loss in the invested amount.

Would Amar be required to compensate for the said expenses incurred by him without the permission of his partner? Would the compensation be paid from the investment portion of Amar or be a payable by him if not already paid for? Reply us through a fatwa and be rewarded.

Summarized Answer:

The amount spent by Amar on gift, charity, *Hajj* and *ziyarah* would be from his own account and the partner would not bear these expenses. Similarly, all expenses incurred by Amar in the city where *mudarabah* took

place or all expenses incurred by him on himself in his own city or where he has a house and similarly all expenses if the *mudarabah* contract is vitiated would be borne by Amar. The reason is that *mudarib* would not be entitled to anything beyond *mithli* wage in case where the *mudarabah* contract is vitiated.

Yes, where the *mudarabah* contract is valid and the *mudarib* travels to a place from where he cannot return on the same day, then he would be entitled for customary maintenance like meals, dressing, lodging, transport, servant and servant's maintenance from the assets of *mudarabah* until he returns to his home. It must not be beyond what is customary otherwise he would be liable to compensate for the excess. And Allah the Exalted knows better. (19:142)

Chapter on Dispute Between the Parties

Recovery from third parties

Question: 7 Moharam 1316H.
Zayd invested money with Bakr under a *mudarabah* arrangement. It was agreed that Bakr would be responsible for one-third of the profit and loss from the business whereas the remaing two-third would belong to Zayd. In the trading, amount was paid to the sellers in excess of the stock received from them.

(1) If the amount paid in excess of stock received is not recovered from the sellers, would Zayd be entitled as per the Sharia to receive one-third of the loss from Bakr, or not?

(2) Bakr is busy in recovery efforts for some times and is unable to carry out any other economic activity, would he be entitled for a compensation of it from Zayd?

(3) Bakr filed a suit for recovery of money against those persons (sellers) with the permission of Zayd. Would Zayd be entitled to recover one-third of the litigation costs from Bakr if the money is not recovered, or not? Reply and be rewarded.

Summarized Answer:
Placing the condition of loss on the *mudarib* is void. A *mudarib* is not responsible for any loss except that of effort and hardwork. All loss in business would be borne by the investor. The *mudarib* is also not entitled to any compensation of hardwork and effort from the investor, and his compensation would be the agreed share in the profit.

Accordingly, in the questioned situation, Zayd cannot recover any share of loss incurrd for non-recovery and cost of litigation from Bakr, and Bakr would also not be entitled to compensation for his effort from Zayd. And Allah the Exalted knows better. (19:131)

BOOK OF DEPOSIT/BAILMENT (*AMANAH*)

BOOK OF DEPOSIT/BAILMENT

Chapter on Meaning and Duties of the Depositee/Bailee 467
Duty of Bailee 467
Chapter on Violating the Terms of the Deposit: Dispute and Liability..... 469
Loss and compensation 469

Chapter on Meaning and Duties of the Depositee/Bailee

Duty of Bailee

Question: 26 Moharam 1312H.
Yaqob Khan had 6 dirhams receivable from Niyaz Ahmad. Yaqob Khan saw 20 dirhams in possession of Niyaz Ahmad and took his 6 dirhams. Niyaz Ahmad told Yaqob Khan that Inayat Allah owned those dirhams and these were not owned by Niyaz Ahmad. Yaqob Khan did not listen to Niyaz Ahmad and took away the dirhams receivable by him. Later, Inayat Allah approached Yaqob Khan and told him to return the dirhams as those were owned by him. Yaqob Khan replied that he had taken the dirhams from Niyaz Ahmad and Inayat Allah should recover the dirhams from Niyaz Ahmad and not Yaqob Khan had nothing to do with Inayat Allah. Is it permissible for Yaqob Khan to have those dirhams, or not? Should Inayat Allah demand his dirhams from Niyaz Ahmad or Yaqob Khan? Reply and be rewarded.

Answer:
If Yaqob Khan knew or had proof that the dirhams were owned by a person other than Niyaz Ahmad, then it would be impermissible and sin to get

those dirhams, otherwise the possession is an evidence of ownership. Moreover, where a creditor finds debtor's asset of same specie and that debt is of the nature of loan, payable on demand, or has a credit period that has lapsed, then the creditor would have every right to recover it.

As far as demand of Inayat Allah is concerned, if Niyaz Ahmad did not give the dirhams to Yaqob Khan but Yaqob Khan took these by force, then demand would be made to Yaqob Khan and not Niyaz Ahmad. However, if Niyaz Ahmad handed over the dirhams to Yaqob Khan on his demand, even if the insistence was strong, or Yaqob Khan tried to snatch and Niyaz Ahmad could save these but did not save, then compensation is due on both Niyaz Ahmad and Yaqob Khan and Inayat Allah can demand from either of them. And Allah the Exalted knows better. (19:153)

Chapter on Violating the Terms of the Deposit: Dispute and Liability

Loss and compensation

Question: from Molvi Abd al-Haq (Soorat), 14 Rabi al-Akhir 1312H.
Hinda gave five gold coins (*gini*) to Zayd for selling. Zayd kept those five gold coins in his bag that is kept in a box. He keeps quarter-*ana* and half quarter-*ana* coins in the bag. The gold coins were still unsold when, as per Zayd's statement, he emptied the bag while giving a dirham to another person. After emptying the bag, he placed the empty bag in the box, closed the box and got busy in his work. He did not remember those gold coins and forgot those while keeping outside the box. After few days, when Hinda came to collect the gold coins or sale proceeds, Zayd tried to find out the gold coins, he cannot recall if he left those outside the box or gave those to the person who came to take the dirham. In this situation, would the loss of gold coin be borne by Hinda or compensation be payable by Zayd? Reply and be rewarded.

Answer:
In the questioned situation, Zayd would be required to pay the compensation because the loss is due to his fault. It is stated in *Hindiyyah*:

A person gave a piece of cloth to a broker for selling. Later, the broker said that he had forgottten and did not recall the shop where he had left it. In this situation, the broker would be required to pay the compensation. Similar is stated in *Khaniyyah*. If the broker said that he had kept it it in his house and under his governance, and the cloth was wasted after he left the house and forgot it, then it would be analyzed as to whether the thing is of such a nature that it is unsafe in an unlocked house and keeping it in unlocked house is not considered safe for that thing, like bage of dirhams, gold and similar things, then the broker would be required to compensate, otherwise not, as stated in *Muhit*.

And Allah the Exalted knows better. (19:154)

BOOK OF COMMODATE LOAN (*ARIYYAH*)

BOOK OF COMMODATE LOAN

Chapter on the Nature and Validity of *Ariyyah* 473
Usage of a piece of land of another person 473
Chapter on the Rules of *Ariyyah* and Liabilities 475
Returning the thing taken on *ariyyah* to another person 475

Chapter on the Nature and Validity of *Ariyyah*

Usage of a piece of land of another person

Question:
Zyad bought a portion in a piece of land from Bakr. Another portion in the same piece of land remained in the ownership of Bakr. Bakr constructed a house on the land of Zayd with his permission and made a courtyard on his own land. Upon Zayd's demand to vacate his land, Bakr is not willing to vacate and insist Zayd to accept a price of the same. The local jury (*panch*) also wants that Zayd be paid the price of the land. What should be done in this case? Zayd wants the land and not the price. Reply and be rewarded.

Summarized Answer:
In the questioned situation, Zayd cannot be coerced to sell his piece of land and take the price. If the jury forces him for it, it would be against the Sharia and justice. The injuction of the Sharia is to return the land of Zayd to him. As for the house constructed by Bakr on land of Zayd with Zayd's permission, if the land would not be hurt upon removal the house, Bakr would be asked to remove the house and vacate Zayd's land, or Bakr may sell the house to Zayd if the Zayd is willing to buy it. If the land would be

hurt upon removal of the house, Zayd would have the option to either agree to the hurt and force Bakr to remove the house for vacating the land or take the house and pay market price of its scrap to Bakr. If Zayd opts for removal of house, Zayd would not be liable to compensate for the hurt caused to the house, unless Zayd had earlier permitted contruction of house for a specified period and wants it removed before the expiry of that period. And Allah the Exalted knows better. (19:173)

Chapter on the Rules of *Ariyyah* and Liabilities

Returning the thing taken on *ariyyah* to another person

Question: from Rida Ali (Bareilly), 29 Rabi al-Awwal 1336H.
Zayd had obtained a sheet on *ariyyah* for few days. He sent back the sheet to the owner at the end of the *arriyah* period through a reliable person. Later, Zayd came to know that the sheet sent through that person did not reach the owner. He asked from that person as to why the sheet did not reach the owner. To this, the man replied that he had given it on the house of the owner to a kid coming out of the house because the owner was not present in his house at that time. On this statement, the owner presented his sons before that person for identification of the boy who took the delivery of the sheet. The person saw them and said that the boy, to whom he delivered the sheet, was not among these. The owner has denied receiving of the sheet whereas that person said that he delivered it to the owner's house. The only witness in favor of that person's claim is an adult student. In this situation, what is the injunction of the Sharia about the sheet? Should Zayd or that person compensate the owner for the lost sheet or none of them leaving the owner without remedy?

Summarized Answer:
The person who claims to have delivered the sheet is to bear the allegation of wasting the sheet and is liable to compensate the owner because he delivered the sheet to a minor child without even confirming if the child was son of the owner or servant and whether he lived in the house or somewhere else. If the sheet was a precious thing, then the delivery was to be considered a valid return upon handing it over to the owner. If it was not a valuable thing, even then the delivery was to be considered a valid return upon handing it over to the slave, employee or family member of the owner or placing it at a safe corner of the owner's house. Delivery to an unknown unaware minor child is not at all a valid return in *ariyyah*. And Allah the Exalted knows better. (19:174)

BOOK OF GIFT (*HIBAH*)

BOOK OF GIFT

Chapter on Legal Validity of Gifts and Conditions 479
A Victory of the Master: On the injunction about ownership transfer 479
Chapter on Retraction of Gift 481
Retraction of a thing given as a gift in past 481
Chapter on Gift and Stipulations 483
Stipulation of occupaying and maintaining a gifted house 483

Chapter on Legal Validity of Gifts and Conditions

A Victory of the Master: On the injunction about ownership transfer

Fath al-Malik fi Hukm al-Tamlik (1308)

Question:
What is the difference between transferring ownerhip (*tamlik*) and gift? Do the rules of gift of undivided asset, gift during terminal illness and gift without possession also apply to ownerhip transfer, or not? Reply and be rewarded.

Summarized Answer:
According to structure, ownership transfer is general whereas gift is specific. Ownership transfer includes transfer of assets, profits, for cosideration, without consideration, whether during life time of the giver or afterwards. This means ownership transfer comprises sale, gift, *ijarah* and bequest. On the other hand, gift only consists of ownership transfer without consideration. In spoken words, however, words 'ownership transfer' by a living person is often taken to mean gift especially where consideration is

not mentioned. However, a written 'ownership transfer' deed is always taken to mean a gift deed and no one considers it a sale agreement etc. And Allah the Exalted knows better. (19:243)

Chapter on Retraction of Gift

Retraction of a thing given as a gift in past

Question: Aziz Allah, 3 Rabi al-Akhir 1308H.
Zayd gifted a thing to Amar for free about 10 or 12 years ago. Amar has the possession and usage of the thing since then. Can Zayd take it back or not? Regards.

Answer:
Zayd would have right to retract the gift if the following eight conditions are met, even if a hundred years have passed since the gift was made:

(1) The person to whom the gift was given is not a relative with whom Zayd can never marry, like mother, father, grandfather, grandmother, maternal grandfather, maternal grandmother, paternal uncle, maternal uncle, maternal aunt, paternal aunt, son, daughter, grandson, granddaughter, maternal grandson, maternal granddaughter, brother, sister, nephew or niece.

(2) The person to whom the gift was given was not spouse of Zayd at the time of the gift contract.

(3) The person to whom the gift was given was not poor at the time of the gift contract.

(4) The person to whom the gift was given has not so far given a thing to the person making the gift by identifying that it was a consideration for the gift.

(5) There has not been appreciation that is intact in the gift that has increased its price, like building or trees in land, dye in cloth, health in animal, beauty or skill or knowledge in slave girl.

(6) The gift remains in the ownership of the person to whom the gift was given

(7) The gift remains in existence.

(8) The person to whom the gift was given and the person who gave the gift are alive.

The retraction would be permissible where the person to whom the gift was given returns it voluntarily or the person who made the gift retracts it through an order of the Sharia-recognized ruler. Otherwise, he would not have the right to use force for the retraction or retract it through the order of any person other than the Sharia-recognized ruler. Likewise, if any of the above eight conditions is missing, the retraction would not be permissible.

The retraction would only mean that the return would be valid but it would continue to remain a sin because the Sharia dislikes retraction after a thing has been given as gift. The Prophet has given example of this (retraction) by a dog who licks its vomit. We seek protection of Allah the Exalted from it. All these issues are stated in details in the legal texts, like *Dur*. It is stated in *Sahih al-Bukhari* and *Sahih al-Muslim*, "One who retracts a gift is like a dog who licks its vomit; and a bad example does not suit our dignity." Both hadiths have been reported by Hadrat Ibn Abbas (Allah be pleased with him). It is stated in *Sunan al-Arbah* that the Prophet has informed:

> One who retracts a gift is like a dog who has eaten to full stomach, vomits and then licks the vomit. He has reported it from Hadrat Ibn Amar and Hadrat Ibn Abbas (Allah be pleased with them), and Timidhi has corrected it.

And Allah the Exalted knows better. (19:198)

Chapter on Gift and Stipulations

Stipulation of occupaying and maintaining a gifted house

Question:
Zayd gifted his house, which was in his sole ownership, to his minor son and included a condition that Zayd would live in the house as owner his entire life and bear maintenance expense of the house until his son attains adulthood. Zayd wrote down a gift deed mentioning all this. Is the gift contract complete in this situation or has it become vitiated and impermissible because of non-vacation of house by Zayd and inclusion of the conditions of living and maintenance? Reply and be rewarded.

Answer:
In the questioned situation, the gift is valid, effective and complete. Zayd has ceased to have any ownership right in the house. His son has become permanent owner of the house and is not himself capable of damaging or voiding the gift contract. Vacation of the house by Zayd is not required because where a father gifts something to his minor son, the gift would become complete merely by offer, and the possession by the father is considered as the possession by the minor son. The father's occupancy of the house does not affect the completion of the gift contract. It is stated in *Tanwir*, *Dur* and *Rad*:

> Where a person is a guardian of a minor, his gift to the minor would complete upon the offer because the possession by guardian is on behalf of the minor. And the principle is that offer is sufficient for a contract in which one person can represent both parties.

It is stated in *Dur* with reference to *Ashbah*, "Gift of a thing is not valid if the possession is not transferred except where a father gives a gift to his minor child." The conditions of occupancy and maintenance are though meaningless but a gift contract is not vitiated by invalid conditions, rather invalid conditions become ineffective. It is stated in *Dur*:

> The rule for gift contract is that it is not vitiated by inclusion of invalid conditions in the contract; therefore, a gift contract giving away a salve as gift with the condition of freeing the slave would be valid, and the condition would be void.

And Allah the Exalted knows better. (19:229)

BOOK OF *IJARAH* (HIRE/LEASING)

BOOK OF HIRE/LEASING

Chapter on Meaning and Validity of *Ijarah* 487
Form of *ijarah* agreement 487
Chapter on Entitlement to Wages 489
Relation of effort and wage 489
Section on Tasks Not Completed 490
Availability of employee during office time 490
Chapter on Agreed upon and Disputed *Ijarah* 491
The Provision of Wishes and Pearls: On use of money order for money transfer 491
Chapter on Vitiated *Ijarah* 495
The Best Hosting: On the practice of rental contract for agricultural income 495
Chapter on Liability of a Worker 497
No liability to compensate 497
Chapter on Options in *Ijarah* 499
Renting out properites to people engaged in illicit activities 499
Chapter on Disputes in *Ijarah* 501
Recovery expenses 501
Chapter on Revocation of *Ijarah* 503
Termination of employment 503
Chapter on Miscellaneous Issues 505
Relation of *ijarah* and sale 505

Chapter on Meaning and Validity of *Ijarah*

Form of *ijarah* agreement

Question:
Landlord and tenant agreed to enter into a tenancy agreement for a house for a year at rental of two dirhams per month. Later, the tenant prepared a tenancy agreement for two years and sent it to the house of landlord in absence of the landlord.

Since the tenant has breached the trust, the landlord is not interested in giving the house on rent to the tenant. Would the landlord be liable according to the Sharia in this situation, or not? Regards.

Answer:
Before an agreement is written, there is a dialogue between the parties. Sometimes that dialogue is itself the agreement and the written document is merely a confirmation and ratification of the agreement. In such a situation, the reliance is on the dialogue and the written document would be ineffective to the extent it contains any contradiction. It has been stated in *Khayriyyah* that the verbal discussion is to be trusted and a (contradiction in) written bond is not reliable.

In contrast, sometimes that dialogue is not capable of being a contract without a written statement to complete the contract. Accordingly, in the stated situation, if the *ijarah* contract for a year was completed in the dialogue between them, the contract has completed and the landlord is liable to rent the house for one year. Such a dialogue may be as follows:

> Zayd said to Amar, "I have given my house to you on rent for one year at such-and-such rental." Amar replied, "I have accepted it," or "I have taken it," or "I have agreed to it."

He cannot deny giving the house on rent for one year only for the reason that the tenant breached the trust by writing agreement for two years instead of one year because it would be merely be bad conduct whereas bad conduct of the tenant is not sufficient for repudiation of an *ijarah*. It is stated in *Rad*, "Bad conduct of *mustajir* cannot be a reason for repudiation of *ijarah* and a statement to this effect has been quoted in it from *Lasan al-Hukkam*."

If the contract was not completed in the dialogue and the tenant has now written a two-year contract and Zayd did not accept it, he would not be liable to rent the house to him for even a day. Such a dialogue may be as follows:

> Amar asked, "Would you give me your house on rent for one year at such-and-such rent?" Zayd replied, "Yes." Amar said, "Should I get a tenancy agreement prepared." Zayd said, "Yes."

The reason is that it was a promise and not a contract. The contract had not taken place and the tenancy agreement has been prepared without consent of the landlord who has not accepted it. Therefore, the contract has not taken place. And Allah the Exalted knows better. (19:493)

Chapter on Entitlement to Wages

Relation of effort and wage

Question: from Muhammad Zahor (Bareilly), 10 Shawal 1337H.
Zayd is a laborer. When he works on daily wage, he would put in less effort. When he works as a contractor, he would put in more effort. What is the ruling about Zayd's earning?

Answer:
There are three levels of effort: Slow, Medium and Fast. If he works slow on daily wage, it would be an act of sin for him and receiving entire wage would be prohibited for him. He should receive proportionate wage and must return the amount beyond it to the employer or his heirs if the employer has died, or Muslim poor if he had not heirs. It would be prohibited for him to spend it on himself or give away other than as *sadaqah*, even if he works slow under contract too.

If he works with medium speed on daily wages, the wage would be lawful, even where he works with fast speed under contract. And Allah the Exalted knows better. (19:406)

Section on Tasks Not Completed

Availability of employee during office time

Summarized Question: from Salim Allah Khan (Lahore), 14 Dhilhajjah 1336H.
If an employee violates the terms and conditions of employment duly signed by him, can the employer withheld or make deduction from his salary?

Summarized Answer:
It is mandatory for an employee to remain available for work during office hours. This availability makes him eligible to receive his salary, even if he is not given any work during this time. However, if he does not remain available, for example he absents himself without leave or beyond leaves, or is available in office for less than office hours, then proportionate salary would be deducted. And Allah the Exalted knows better. (19:505)

Chapter on Agreed upon and Disputed *Ijarah*

The Provision of Wishes and Pearls: On use of money order for money transfer

Kitab al-Mani wa al-Durar li-man Amad Money Order (1311)

Question: from Molvi Abd al-Sami (Meerut), 20 Ramadan 1311H.
What is the ruling in the following matter? We pay stipends to many poor. The amount is fixed at two and three dirhams. Five or four of them have asked me that they could not travel so much for two dirhams, and that traveling cost approximates the amount of stipend. They have asked me to send stipend through money order. I considered that money order is prevalent at various places including madrasas so I should accept their demand and get reward from Allah. When I checked its permissibility as per Sharia, I thought that additional amount that we give over and above actual money being sent is fee to post office for delivering money to addressee, get acknowledgment signature and provide the receipt obtained from the addressees, therefore, the additional amount is not *riba*. The practice has prevailed for several years. Some scholars have declared money order as forbidden. They rule it as *riba* and forbidden. If the reason for the

permissibility considered by me is valid or if you could identify any permission for it, please inform us as some poor have significant problems.

Summarized Answer:
I have seen the published fatwa of the scholar [Rashid Ahmad Gangohi] in which he stated, "It (money order) involves *riba* because 10 dirhams and two *anas* are received in consideration of 10 dirhams." However, such an opinion could be of a person who is unaware of the purpose of paying those two *anas*. Probably, he does not know that a post office is an entity that provides services (*ajir-i mushtarak*) with the aim to earn service fee. The two *anas* are definitely fee for going to and delivering money to the addressees, and coming back and bringing the acknowledgement receipt, like fee for postal envelope and parcel is four *fulus* (copper coins) and so on. No rational person can assume such fee as *riba*. Neither these *anas* are consideration of money transferred nor do senders have objective of any decrease or increase in consideration of money so transferred. In my view, it is wrong to assume money order merely a loan without service contract (*ijarah*). The claimant summarily claimed it, and his supporter presented two arguments but reality of situation remained unknown.

In reality, two types of payments are paid while sending a money order: One is the amount that is supposed to be received by the intended receiver, and the other is the commission paid, like ten dirham and two *anas*.

Every intelligent jurist knows that if only those particular first amounts were delivered, like in case of a parcel, the agreement would be only to provide a service. Alternatively, if sender wanted to deliver those particular dirhams and (1) post office did not established the rule to keep the given dirhams with them and to give its equivalent to the intended receiver rather (2) they sometimes delivered the particular sum received from the sender and (3) at other times kept the sum received with them at place of deposit and provided equal sum to addressee from treasury of addressee's nearest post office, in all the three situations the agreement would merely be for provision of a service, and any non-compliance on the part of service provider (*ajir*) would be impermissible by the Sharia. However, there would be no allegation against the person procuring (*mustajir*) whereas post office would not be entitled to service fee because of the use of the bailed items that it had received to deliver. It is stated in *Hindiyyah* with reference to *Tatarkhaniyyah*:

> If specific dirhams are given to service provider for delivery to another person, and the service provider spends the dirham in midway and gives similar dirhams to the intended recipient, in this case the service provider would not be entitled to service fee because upon paying compensation of the spent dirhams he becomes owner of the dirhams.

However, when the regulation of usurping and similar sum delivery is known that has bean designed by legislators of post office regulations,

although sender's objective would be achieved if the specific dirhams were transferred, but because of regulation and custom (*urf*), parties know that similar sum would be delivered, thus they would not be wrong in considering it loan, even if parties do not use the word 'loan.'

Likewise, every rational person knows that if the second amount were not fee for some work, the contract would be purely a loan and the excess would be *riba*. Alternatively, if it were paid for purpose of profit other than from service contract, the contract would be a service contract. However, none of the two is the situation here rather, like other services fees of post office, the amount is definitely service fee. Sender gives it considering fee, and post office receives it as fee. No one even assumes that two *anas* are *riba* that the debtor receives from the creditor. Post office has been established for providing these kinds of services. The presence of contract and declaring amount being fee is established without any hesitation. If anyone asks about the service provided for the fee, he would be told that the service is reaching the receiver's home, paying money to him, coming back with the acknowledgment. All these are permissible services for earning profit under an *ijarah*.

Interestingly, the said scholars have declared the amount of fee as loan and *riba* declaring the intention as void although the parties to contract intend to agree service provision for permitted profitable objective and give fee in consideration of service and consider it a fee. There is no example of the opinion of the scholars in Sharia rather Sharia attempts to validate a statement or contract as students of jurisprudence are aware of it. A simple example could be that where 10 dirhams and two *anas* are exchanged with two dirhams and 10 *anas*. There is clear excess in value and if specie is considered as corresponding to the same specie, it would be *riba*. However, the Sharia orders to correspond each specie to the other specie to avoid *riba*, as our jurists have ruled. Consequently, it is proved that although money order does not only contain service provision, it is also not merely a loan as Gangohi and Thanawi thought and declared the fee as *riba* instead of service fee. In fact, both service delivery and loan are present in money order.

By now, misconceptions of Gangohi and Thanawi have been answered and it is clear that declaring two *anas* as *riba* was based on wrong assumption that it is only a loan whereas it has been proved that the assumption was incorrect and service contract is also present. The payment of two *anas* is a fee instead of an excess without consideration. Therefore, declaring it *riba* is mere ignorance.

The above discussion has also responded the following two arguments presented by the supporters of view that a service contract is absent.

[The first argument states that] if money is destroyed, sender would claim compensation and post office would be liable. Therefore, it is proved that service contract is absent and the extra payment is not fee. In reply to this argument, my view is that compensation does not negate service

contract, and at most compensation should be impermissible. No one declares money order as mere service contract rather presence of loan is also proved for which repayment by similar thing is specifically required by the Sharia. Therefore, even if the compensation is not allowed because of this being a service contract, it would be allowed because of the loan, in which case it cannot prevent service contract.

[The second argument states that] if it were a service contract, the specific dirhams given should be compulsorily delivered and this is neither intended by senders nor practiced by post office. In my view, apart from the level of this juristic analogy (*Qiyas*) whereby the contract would not remain a contract if parties do not assume a contract as contract or do not cover it, is absence of an injunction is attached to absence of contract, or absence of confidence or act? In reality, delivery of the specific dirhams was compulsory if it were only service contract, but post office is responsible to go to a certain address, pay money and bring acknowledgment as service provider and is debtor for the deposited money. Therefore, the money delivered is not specific but a debt and a debt is neither paid specifically nor is it mandatory to do so. It would be sufficient to deny the excess as fee and declare it *riba* by proving it merely a loan without service contract. Both arguments had tried to only prove that it was not a service contract. Therefore, the argument has no connection with the claim.

I am also of the view that, with the help of Allah and Allah is the guide towards the height of research, post office is definitely a service provider, and all of its fees are service fees. Post office regulations divide its services into two categories. First, services in which post office is surety, like parcel, registered post, postal insurance and money order service. Second, services in which post office is not surety like letter and packets whether bearing or postage paid. This categorization also clarifies that compensation is not because of loan but for this difference in post office regulations. As a result, compensation is paid on postal insurance although it involves no loan. In fact, common payers do not consider the payment as giving a loan to post office, leave apart the receivers. They do not assume that post office is forcing them to pay. Rather they understand that like other contracts of post office, it is a service contract and for this purpose post office were opened. They give the fee as service charges, and understand the compensation in the event of destruction for this condition like postal insurance etc rather then thinking that they give the loan that need to be received back and post office assuming that it took a loan that has to be repaid. However, after destruction of subject matter, post office is liable from the time of destruction rather than from the time of submitting payment parties become creditor and debtor from the time of destruction. This is an apparent matter so the undertaking to compensate is not because of loan rather it is because of a condition to compensate. And Allah the Exalted knows better. (19:563)

Chapter on Vitiated *Ijarah*

The Best Hosting:
On the practice of rental contract for agricultural income

Ajud al-Qura li Talib al-Saha fi Ijara al-Qura (1302)

Question: from Badaun, 7 Jamadi al-Awla 1302H.
The prevalent practice of renting out villages (comprising agricultural land) that results in the land remaining in custody of cultivators whereas income from it is rented out to a contractor, for example by contracting with words "a village of so-and-so-much income is rented to you and you would pay the rent in installment without any lapse." If the contractor collects more than the contract amount, he would keep the excess; and if he collects lesser than the contract amount, he would make up the short fall. Is this method permissible according to the Sharia, or not?

Would it be permissible for the contractor to take the excess and for the landlord to receive the shortfall from the contractor, or not? If this method is declared impermissible, what is the difference that makes contracting land to cultivators as permissible and this method as impermissible? Reply and be rewarded.

Summarized Answer:
This agreement is void and impermissible according to the Sharia. There is no way of making it permissible and lawful. This agreement is of no effect, and the parties are not bound by it and are required to address its issue. The contractor has nothing to do either with the income or with the land. It is compulsory for him to pay entire money to the owner, whether it is less or more than the fixed amount. Even a *fals* from that income is prohibited for the contractor. The owner does not have any right to receive more than actual income.

For example, if the contract is for 1000 dirhams and actual income is 900 dirhams, 900 dirhams would be lawful for the owner and any excess would be prohibited for him. If income is 1100 dirhams, the entire 1100 dirhams would be given to the owner and the contractor cannot keep anything from it. Even if the contractor backs out from receiveing the income to earn any wage for his effort, he would not have the right to do so. And Allah the Exalted knows better. (19:541)

Chapter on Liability of a Worker

No liability to compensate

Question:
A trader trusted a hired professional worker and gave him work for years against wages. The professional did the work all these years with honesty and never made any lapse. After all these years, a piece of asset given for work has been lost by the worker. Would it be permissible to make him liable to compensate the trader, or not? Reply and be rewarded.

Summarized Answer:
It would be impermissible (to make him liable to compensate the trader). It is stated in *Waqayah*, "A worker would not be liable to compensate for a thing lost from his custody, even if the condition to compensate is part of the contract; and fatwa is to be issued according to this rule." Same words are stated in *Islah* and *Tanwir*. This is also stated in *Naqayah* without the words 'and fatwa is to be issued according to this rule.' It is stated in *Multaqa*, "The thing is with the worker under bailment, and he would not be liable to compensate if it is wasted, even if the condition to compensate is part of the contract; and and fatwa is to be issued according to this rule." It is stated in *Kanz*, "If the thing is wasted in his custody, he would not be liable to compensate." It is stated in *Ghurar*, "No compensation would be payable if

the thing is wasted in his custody, even if the condition to compensate is part of the contract." It is stated in *Minh al-Ghaffar*, "Fatwas in a lot of authentic legal texts is according to this, the authors of our legal texts have relied upon it so this is the rule according to our school of law." It is stated in *Khaniyyah*, "The authentic statement about general contractor is that of Imam Abu Hanifa." It is also stated in it that Faqih Abu al-Lays said, "According to the opinion of Imam Abu Hanifa, the worker would not be liable to compensate; this is also our authentic rule; and fatwa is to be issued according to the opinion of Imam Abu Hanifa." The above was a discussion on the subject according to our school of law.

If the opinions of later jurists as per the changes in the era are considered, most of them have the opinion that the worker would not be liable to compensate if he is righteous, he would be liable if he is dishonest, and a settlement of half the price would be agreed if his conduct is unknown. On this rule too, he would not be liable to compensate because the person questioning has stated that he is professional, reliable, honest and has been working for several years without any deception or carelessness in custody of bailed asset. The thing has been wasted once after several years, and wastage in this manner is possible even in custody of owner despite full safety and care in which case the owner would not be considered as dishonest.

Therefore, as per juristic analysis, the worker is not liable for the compensation. And Allah the Exalted knows better. (19:407)

Chapter on Options in *Ijarah*

Renting out properites to people engaged in illicit activities

Question: from Abu Muhammad Sadiq Ali (Meerut), 11 Ramadan 1310H. Is it permissible to obtain gain from rental of house and agricultural land from the following: bishops of the Christians, pandits of the Hindus, preachers of the Jews, *mujtahids* of the Shiite, orators of the *Ghayr-i Muqallids*, sellers of alcohol, traders of other intoxicating things, people of bad conduct, liars, polytheists and infidels especially those who are designated for propagation of their religion and generally those who publicise these? Reply and be rewarded.

Answer:

[**Summary:** There are two parts here. First, is it permissible to give houses for residing and agricultural land for cultivating to these persons, or not? Second, in case of permissibility, would it be permissible to receive lease rental from their assets?

The answer to the first is permissibility because he has given the house or land on rent for living or cultivating and not for any sin, even though they would commit act of sin whereever they reside and they would use their income for acts of sin. However, the landlord is not responsible for their such acts. This is the juristic reply, and it is logically correct that renting

a place to a person who would potentially destroy the faith and conduct of the Muslims means presenting the Muslims to destruction.

The answer to the second is that it is impermissible to receive rental from assets which is known to be from a prohibited source. For example, if the landlord knows that the money (being given as rental) has been obtained by Zayd (the tenant) from usurpation, theft or bribery or Hinda from adultery or singing or a Muslim from selling alcohol or pork, then it would not be permissibe for the landlord to receive it as his due or otherwise. And where such a situation is not present, the fatwa would be for permissibility, even if there is certainity that the payer has assets from prohibited sources but it is not confirmed that the wage is exactly from those assets, even where most of his assets are from prohibited sources. And Allah the Exalted knows better. (19:440)

Chapter on Disputes in *Ijarah*

Recovery expenses

Summarized Question:
Zayd rents out metallic ploughs to villagers. Rental fixation, rental payment terms, return of plough and other terms are agreed at the time of contract. However, they hardly pay rental on agreed time. Therefore, individuals are hired for recovery who make several visits to their houses and pressurize them. In this situation, would it be permissible if the individual demand expenses for food, travel and stay from villagers, or Zayd includes a condition for receiving recovery expenses from villagers? Reply and be rewarded.

Answer:
The individuals are employees of the owner and do his work. He has hired them for work. Therefore, their wages and meals are his responsibility and have nothing to do with the debtors. His thought that the individuals have been hired because of their default is useless because the injunction applies to the person doing the act rather than the person who provided a reason to him for the act. Accordingly, plaintiff is not entitled to recover litigation costs from defendant, even if the litigation results from default of the defendant. If a condition to this effect is included in the lease contract, the

contract would be vitiated and cancelling it would be obligatory. And Allah the Exalted knows better. (19:439)

Chapter on Revocation of *Ijarah*

Termination of employment

Question:
Zayd is a teacher at an Islamic madarasa. He went to his hometown after end of examinations and during vacations as per prevailing practice of madarasas. Before the end of vacations, he came back to attend an event of the madarasa and asked the adminstrators to confirm about continuation of employment or termination so that he could look for employment elsewhere. However, he neither received a reply nor did he receive any termination notice during the vacations. In this situation, would Zayd be entitled to receive salary of the vacation period, or not? Reply and be rewarded.

Summarized Answer:
Salary for vacations period, just like holidays for Ramadan, *ids* etc, would be paid to teachers. A thing established by custom is like an agreed condition.

No one has the right to terminate an employment contract on his own, unless there is a clear excuse for it that leaves no doubt, and until then the employee would be entitled to receive salary. It is stated in *Dur*, "*Ijarah* can be terminated mutually or through court." It is stated in *Rad*, "The correct view is that the teacher would have the option if there is an apparent reason

for the absence, and he would not have option if the reason is doubtful." And Allah the Exalted knows better. (19:437)

Chapter on Miscellaneous Issues

Relation of *ijarah* and sale

Question: from Abd al-Karim Khan (Rampur), 23 Jamadi al-Awla 1316H. You had previously sent a fatwa to me and I have submitted it in the court. The head of higher court has demanded a validity of the fatwa from the head of the civil court. The head of the civil court cannot disturb his recommendation and the fatwa sent by you has all the references related to sale and none relate to *ijarah* validity of which has been demanded by the head of higher court. For this, I am disturbing you again and sending an exact copy of the mandamus.

Answer:

[**Summary:** In the previous fatwa, it has been proved that the referred *ijarah* is vitiated and its cancellation is obligatory. All the references were related to *ijarah*, and calling those as related to sale amounts to accepting that these relate to *ijarah*. In the given context, the rule for *ijarah* and sale is the same. *Ijarah* is a kind of sale. To summarize, some references from legal books are presented here. It is stated in *Uqud al-Dariyyah*, "Sale and *ijarah* are brothers because *ijarah* is sale of a gain." It is stated in *Rad*, "*Ijarah* is a kind of sale because it is sale of a gain." It is stated in *Mukhtasar* of Imam Quduri and *Hidayah*, "Conditions vitiate *ijarah*, like these vitiate sale, because *ijarah* is like

sale." It is stated in *Tanwir* and *Dur*, "The things stated in sale as vitiating a sale would also vitiate *ijarah*." And Allah the Exalted knows better. (19:463)

BOOK OF COERCION (*IKRAH*)

BOOK OF COERCION

Chapter on the Source and Meaning of *Ikrah* 509
Meaning of *ikrah* 509
Chapter on Acts of Coercion and Consequences 511
Proof of coercion and timing 511

Chapter on the Source and Meaning of *Ikrah*

Meaning of *ikrah*

Selected Question: from Moneylender Shayam Sundarlal (Bareilly), 2 Rabi al-Thani 1337H.
Zayd got a sale agreement with Bakr endorsed. A copy of that is attached with this question. However, no exchange has taken place and only an agreement to sale has been made. Zayd has filed a claim in the court for cancellation of the said document. Claim and the counter-claim papers are also attached with this question. (1) Would the stated claim as per the claimant is an instance of sale under coercion? If yes, what is the injunction in this regard? Reply and be rewarded.

Summarized Answer:
(1) There is mention of defendant keeping the plaintiff in his house for a long period, preventing him from meeting with others stated in the plaint and creating undue pressure. The oral statement of questioning persons is that a threat of murder was given and the plaintiff also reminded it. If these statements are real, the sale would be certainly under coercion and vitiated, and voidable by the seller. Threat to murder is a high degree of coercion,

and mere confinement for a long period is also sufficient evidence of coercion. And Allah the Exalted knows better. (19:609)

Chapter on Acts of Coercion and Consequences

Proof of coercion and timing

Selected Questions:
(2) For coercion, would the presence of undue pressure at the time of registry necessary or previous threat and a valid fear of hurt in the future be sufficient? (3) In the situation where money has not been paid at the time of registry, would the burden of proof of paying money be on the buyer, or not? Reply and be rewarded.

Summarized Answers:
(2) It is not necessary for coercion that the knife is on the throat of the person who is being coerced, or confinement or attack is present. It would be sufficient that the coercing person had issued warning or limitation in past and happening of the same is validly expected and the person being coerced is within his reach. However, if he issued warning and the person being coerced gets out of his reach but acts out of fear that he may be harmed in future upon coming within reach, then it would not be a case of coercion because the previous coercion and risk is presently absent and unclear.

(3) Yes, in the stated situation, the burden of proof of acceptance and custody of money would be on the buyer because the court cannot order but the Sharia would order acknowledgment, or eyewitness or refusal to take oath. And Allah the Exalted knows better. (19:609)

BOOK OF INTERDICTION (*HAJR*)

BOOK OF INTERDICTION

Chapter on Natural Causes Leading to Interdiction 515
Person suffering from paralysis 515
Chapter on Interdiction Due to Acquired Causes 517
Stopage from gift or disposal 517
Chapter on Attaining Majority (*Bulugh*) 519
Puberty for boys and girls 519

Chapter on Natural Causes Leading to Interdiction

Person suffering from paralysis

Question:
Paralysis is a mental desease. Does it necessarily affect mind and result in loss of senses? If a scholar suffers from it for few years, and he gets frustrated with such long suffering and engages himself into games like chess to dirvert his attention from the desease, would it necessarily result in declaring that scholar as insane or one loosing sense? Would his actions as to sell or gift etcetera be declared void? Reply and be rewarded.

Summarized Answer:
Although paralysis is a mental desease, it does not necessarily affect mind and does not result in loss of senses. It is stated in our general legal books that when this desease continues for over a year, the patient would be considered as healthy according to the Sharia and all of his actions would be effective. Had this desease result in loss of senses, the jurists would not have ruled so. Playing chess or other games also does not prove loss of senses. In fact, these games require mind and senses. We are not talking here about such acts as being distant from the dignity of a scholar. And

Allah the Exalted knows better. (19:618)

Chapter on Interdiction Due to Acquired Causes

Stopage from gift or disposal

Question: 1 Dhiqaddah 1307H.
A man is married to two women and has liability to pay dower to both the wives. He wants to give his entire wealth as gift or against dower payable to one wife or as gift to a third person so that the other wife does not get anything. In this situation, can the other wife file a claim before a qadi or mufti, or not? Can she stop him from doing such an act? Reply and be rewarded.

Answer:
Although depriving one wife is against justice and fairness, however, since the wealth is not pledged for her dower, she would be entitled to prevent usage or transfer of it. He may give it as dower to the other wife or as gift to a third person or he may proceed for its disposal in any other manner.

Imam Abu Hanifa does not allow interdiction of anyone for a liability. Imam Abu Yusuf and Imam Muhammad permit interdiction for usage but only after decision of a qadi in this regard. Therefore, if decision of qadi is not present, they would not permit interdiction. It is stated in *Hindiyyah*,

"Interdiction for liability is not effective without decision of a qadi," and "Interdiction would not be declared and it would not be effective according to Imam Abu Hanifa until his interventions become valid; and same is stated in *Muhit*." And Allah the Exalted knows better. (19:621)

Chapter on Attaining Majority (*Bulugh*)

Puberty for boys and girls

Question: from Qadi Abd al-Wahid (Patna), 13 Dhilhajjah 1322H.
What is the limit of attaining majority by minors whether the minor is a boy or a girl?

Summarized Answer:
A boy of less then 12 years of age and a girl of less than nine years of age would never be adult, and both boys and girls are considered by the Sharia as adult if they have attained age of 15 years, even if signs of adolescence are not apparent.

If signs of puberty are found withing these age limits, that is boy or girl has ejaculation, girl menstruates, boy gets a girl pregnant through sexual intercourse or girl gets pregnant, then the person(s) would be an adult.

If signs of puberty are absent but the boy or the girl claims to be an adult, and the appearance of the boy or the girl does not contradict the claim, the person would be considered an adult and all the injunctions of the Sharia applicable to adults would apply.

Apperance of moustache or beard and growth of breast are not reliable signs for adulthood. And Allah the Exalted knows better. (19:629)

BOOK OF USURPATION/ABDUCTION (*GHASB*)

BOOK OF USURPATION/ABDUCTION

Chapter on the Meaning of *Ghasb* and its Consequences 523
Threatening and undue influence 523
Chapter on Changes Caused in the Usurped Property by the Usurper 525
Distributing from usurped property 525
Chapter on Usurpation of Things That are not Assigned Marketable Value 527
Usurpation of land and abusing the owner 527

Chapter on the Meaning of *Ghasb* and its Consequences

Threatening and undue influence

Question:
What do ulema and muftis say about a person who extracts money from a friend through deception and shrewdness and threatens him by saying that if he is not given the money the victim would be pushed into such-and-such problem, and about a person who creates problems for others and shows his superiority and undue impression by indicating friendship with an influential person so that people remain under his influence? Reply and be rewarded.

Answer:
Extracting assets from someone through shrewdness, deception, coercion or threat is absolutely prohibited. If it is obtained through force, it would be usurpation, if it obtained through threat, it would be bribery, and both these methods are prohibited and attract punishment of the Hell and anger of Allah the Exalted. We seek protection of Allah the Exalted from these. Allah the Exalted has ordered, "Do not take one another's asset through void methods." Inflicting pain, threating, and showing power and ego over

Allah's creature are absolutely prohibited acts.

The Prophet (Allah's peace and blessings upon him) has informed, "The worst person is one who is feared by people of his/her bad toungue and bad deeds." This hadith has been reported by Ibn Abi Duniya in the book *Dham al-Ghybat* from the companion Hadrat Anas, Allah be pleased with him.

The Prophet has informed, "One would not mishandle and abuse people unless he was born out of unlawful sexual intercourse or such an element is present in him/her." This hadith has been reported by Tibrani in *Kabir* from Hadrat Abu Musa Ashari with a valid certificate. And Allah the Exalted is the Guide toward the good. (19:653)

Chapter on Changes Caused in the Usurped Property by the Usurper

Distributing from usurped property

Question: from Molvi Ismaiyl (Chittagong), 14 Shawal 1321H.
A deceased man, for example Zayd, left movable and immovable properties in inheritance for his heirs including sons, Khalid, Bakr and others. Khalid took all the properties of his father into his custody by force, did not distribute it among all the heirs according to the Sharia, did not give anything to his brothers, Bakr and others, and used the properties for himself. Does Khalid's actions amount to usurpation or not? Is his decision to use these for himself, for guests other than heirs and not for the valid heirs according to the Sharia, or not? Is it permissible for a usurper to arrange meals out of usurped assets and for the guests and other persons to have such meals, or not? Would the usurper be liable for *tazir* if he insists on usurpation and considers it normal and not usurpation, and rather makes usurpation his profession, or not? Reply with references and be rewarded by the Bestower.

Answer:
The said act is certainly usurpation and prohibited. Allah the Exalted has

ordered, "Do not take one another's asset through void methods." Where the usurper gives an exact thing as gift, meal, wage or salary or price of a thing from the usurped assets, it would be prohibited for the receivers to receive and consume the same, and the quoted verse from the Quran includes all such situations, as is not hidden. Insistence on usurpation and making it a normal would only increase the divine punishment, consequence and entitlement to the Hell.

The question about making such an act normal requires more evidence for further ruling. Yes, if it is proved that he considers the prohibited (usurpation) as lawful, it would result in ruling for his infidelity. The reason is that infidelity requires refusing a necessity among beliefs. Prohibition of usurpation is among such necesscities. In such a situation, the difference of *hurmat-i laynihi* and *laghira* would not help, as some ulema have stated. And Allah the Exalted knows better. (19:674)

Chapter on Usurpation of Things That are not Assigned Marketable Value

Usurpation of land and abusing the owner

Question: 27 Dhiqaddah 1319H.
Zayd has had his house constructed and included some land owned by Bakr into it. Bakr tried to prevent him from doing so. Upon Bakr's refusal, Zayd and his brother Amar punished Bakr. Bakr tried to avoid the fight but they took the piece of his land. Amar considers himself a virtuous man, and the people of his locality also consider him as such. For this reason, this question is being sent to ulema so that Amar may repent from his act upon knowing the injunction of the Sharia in this matter and avoid abusing Bakr again. What are injuctions about Zayd, Amar and their supporters. Reply and be rewarded.

Answer:
In the questioned situation, Amar and his supporters are all tyrants, have committed major sin and liable to severe divine punishment. The Prophet has informed, "A person who occupies a piece of land unlawfully would be

buried into a depth equal to the distance upto the seveth Earth." This hadith has been reported by Imam Bukhari from Hadrat Ibn Umar, Allah be pleased with him.

The Prophet has also informed, "One who inflicts pain to a Muslim has caused me pain, and one who causes me pain is causing pain to Allah." This hadith has been reported by Tibrani in *Awsat* from Hadrat Anas, Allah be pleased with him with a good certificate.

In third hadith, the Prophet has informed, "One who supports a tyrant and knows that that person is a tyrant, has moved away from Islam." This hadith has been reported by Tibrani in *Kabir* from Hadrat Aos Ibn Sharjil, Allah be pleased with him.

It is mandatory for Zayd to return the piece of land owned by Bakr. It is also mandatory for Zayd, Amar and his all supporters to convince Bakr and seek pardon from Bakr, otherwise they would be liable on the Day of Judgement such that their good deeds would be tranfered to Bakr's account, Bakr's sins would be transferred to their accounts, and they would be pushed into the Hell. We seek protection of Allah from it. And Allah the Exalted knows better. (19:669)

BOOK OF PREEMPTION (*SHUFAH*)

BOOK OF PREEMPTION

Chapter on the Meaning of Preemption (*Shufah*) and Priorities 531
Time of claiming the right of preemption 531
Chapter on the Demand of the Right of Preemption and Filing Suit for it .. 533
Manner of demanding the right of preemption 533
Chapter on Disputes in Preemption 535
Testimonies on right of preemption 535
An Insight into the Discourse: About oath by a plaintiff to prove his stance 536
Chapter on the Counter-Value of the Property Subject to Preemption 537
Demanding higher price than the price for which the property is sold 537
Chapter on Alterations in the Purchased Property 539
Action by seller to avoid the right of preemption 539
Chapter on Property Which is Entitled to Preemption 541
Creation of the right of preemption 541
Chapter on Factors That Annul Preemption 543
Refusal to damand righ of preemption 543
Chapter on Miscellaneous Issues 545
Right of preemption over property of a deviant or non-Muslim 545

Chapter on the Meaning of Preemption (*Shufah*) and Priorities

Time of claiming the right of preemption

Question:
(1) Is a preemption claim possible over a sold property upon coming to know about the sale of it but before the possession is handed over to the buyer, or not?

Answer:
(1) The right of preemption proves merely by sale of the property, and the possession by the buyer is not necessary for it. It is stated in *Hidayah*:

> If the sold property is in custody of the seller, the person (having the right of preemption) would present the witnesses there; this means the possession of the property has not been given to the buyer.

It is stated in *Dur*:

> If the property is in cutody of the seller, the person (having the right of preemption) would present the witness there or at the place of the buyer even if the possession of the property has not been handed over to the buyer.

And Allah the Exalted knows better. (20:111)

Chapter on the Demand of the Right of Preemption and Filing Suit for it

Manner of demanding the right of preemption

Question: from Miyan Aftab Husayn (Ujayn), 22 Dhilhajjah 1312H.
Amar has sold his property. Zayd who is a neighbor of Amar wants to buy the property. However, the owner is selling the property to another person. Does the first right of preemption of the property belongs to the neighbor or to another person?

Answer:
The right of preemption is proved for a person after the property has been sold. Until the property is sold, the person having the right of preemption cannot contest the right. Once the owner has sold the property to a person other than a neighbor, the neighbor can claim the right of preemption after the sale. If the neighbor meets the conditions while filing the claim, the property would be given to him by taking back from the buyer. It is in *Tanwir*, "It (the right of preemption) is created after the sale." It is stated in *Dur*, "If the person having the right of preemption cancels the right before the property is bought, it would not be valid because the condition of

preemption which is 'sale of the property' is absent at that time." And Allah the Exalted knows better. (20:114)

Chapter on Disputes in Preemption

Testimonies on right of preemption

Question: from Faruq Hasan Khan (Rampur), 7 Jamadi al-Awla 1331H. Zayd has claim over a property that has been bought exclusively by Amar, and Zayd also has claim over a property that has been bought jointly by Amar, Bakr, Khalid, Fahim and Naim. Zayd has filed separate claims of the right of preemption against the buyers of both the properties. The buyers deny the right after the knowing the about the sale. The witnesses presented by Zayd in the court for claiming the right do not prove the right. Thus, Zayd himself admits failure to present witness for the right and wants to take an oath in support of the right. Would the oath of Zayd be admissible in affirming the right of preemption for Zayd or, in line with the *mufti-ba* narrations and reliable statement of jurists, would the buyers be asked to vow? Reply and be rewarded.

Summarized Answer:
The subject matter of this question is an issue that caused great variation of opinions among our jurists. The summary of injunction is stated here. The question dispatched to me and the one annexured to the attached fatwa are both unclear and incomplete. On these, there cannot be one fatwa as to whether Zayd would be asked to take oath or the buyers' oath would be

required; rather we need to go into details. (1) It needs to be seen if the person having the right of preemption has proved the demand through trusted eye-witnesses or has failed to do so. (2) If he has failed to do so, oath of the person claiming to have the right of preemption would neither be served nor would it be admissible. The reason is that the person has claim that he has the right of preemption and the buyer is denying it, whereas the Sharia requires that oath is on the person who denies rather than the plaintiff. The Prophet (Allah's peace and blessings upon him) has informed, "A plaintiff is required to present witnesses whereas a person who denies is required to vow/ take oath." And Allah the Exalted knows better. (20:125)

An Insight into the Discourse: About oath by a plaintiff to prove his stance

Afqahu al-Mujawabah an Halaf al-Talibih ala Talab al-Muwathabah

Note: This booklet is yet to be found by the translator. In reply to the last question translated above, the author has stated as follows.

The subject matter of this question is an issue that caused great variation of opinions among our jurists. Upon this question coming up for fatwa for the first time, this humble servant gathered a lot of citations, which were contradictory and opposite to one another, from the books of our jurists. These were analysed for the scope, examples, nature of argument, objective and situation to which these relate. After research, analysis, reconciliation and help of Allah the Exalted, the injunction was identified, which is in line with the principles and supported by rational and transmitted arguments, that has aligned all those citations from the books of our jurists and the contradictions ceased to exist. Moreover, estimates of senior jurists, like Allama Ibn Qadi Samawah, Allama Hamwi, Allama Abu al-Saud Azhari, Allama Sayhani and Allama Shami, were clarified for unveiling the truth. This humble servant has given the title of *An Insight into the Discourse* (*Afqahu al-Mujawabah an Halaf al-Talibih ala Talab al-Muwathabah*) to that writing. (20:126)

Chapter on the Counter-Value of the Property Subject to Preemption

Demanding higher price than the price for which the property is sold

Summarized Question: from Muhammad Ismail Khan (District Muradabad), 14 Shaban 1337H.
Amar sold his house to Zayd. Zayd neither had a right of preemption in that house nor the custody or tenancy of the house. Bakr is neighbour of Amar. Bakr has had custody of that house as tenant for several months, and has also announced the intention to purchase the house in presence of numerous persons. The owner is not willing to sell the house to Bakr and upon insistence the seller is asking for a much higher price. Bakr is not willing to buy it at a higher price and does not agree to pay any amount above the price (at which it is sold to Zayd).]

Summarized Answer:
A person having right of preemption neither has the right of preemption before the property subject to preemption is sold by its owner nor could he be entitled to any priority by virtue of tenancy, announcement to buy the property or any agreement with a co-owner. His right would be established

where he immediately demands the property upon knowing the sale of the property (to Zayd). And in this situation, he would buy the property at the price at which the owner has sold it to Zayd. And Allah the Exalted knows better. (20:172)

Chapter on Alterations in the Purchased Property

Action by seller to avoid the right of preemption

Question: from Haji Yaqub Ali Khan (Ujayn, Goliar), 2 Jamadi al-Awla 1316H.

A spring flowing from the house of Ganga Bai and Mithra Bai flows towards the East facing the house of Hakim Rahmat Ali. There is a road in the South. On the West side of the house, only the house of Ramat Ali is situated. They sold it to a Hindu for 700 dirhams and received 10 dirhams at the time of agreement. As the news reached Hakim, he has claimed the right of preemption. After this, the women gave the spring in charity to the Hindu with the intention that the claim of Hakim is rejected. In this situation, is the claim of the preemption by Hakim valid, or not? Please explain with reference to the books of ulema, Allah be pleased with them.

Summarized Answer:

If a person having the right of preemption meets the conditions for the demand of the right of preemption, his right of preemption would be proved. The charity would not annul the right of preemption. Upon the

sale, the buyer has become the owner of the sold property, and the seller is no more the owner of the property. Who is she to give it to him as charity?

If the charity has taken place such that the seller and the buyer mutually cancelled the sale after the claim of preemption, then the seller gives it to the buyer as charity, then it would be an alteration by the buyer that can be rejected by the person having the right of preemption. The mutual cancellation of a sale by the seller and the buyer is a new sale in view of a third person, that is the buyer has sold the thing to the seller, whereas the person holding right of preemption can even reject *waqf* created by the buyer leave aside a sale by the owner. And Allah the Exalted knows better. (20:122)

Chapter on Property Which is Entitled to Preemption

Creation of the right of preemption

Question:
Zayd borrowed 50 dirhams from Bakr and pledged three houses with him. Upon expiry of the credit term, the loan was not repayed. Bakr filed a lawsuit and obtained a court order for 70 dirhams including *riba* and litigation cost. All three houses worth 500 dirhams were auctioned for 66 dirhams. These houses were bought by a servant of Bakr who later showed as buying on behalf of his employer and title was transferred to Bakr.

Bakr did not take possession of the houses. Zayd remained in possession of the houses for seven years. None of his act showed before or after the auction that could demonstrate his consent or permission for the auction. Both of them have died, and the possession was taken by heirs of Zayd. The heirs of Bakr obtained a court order for the possession, and they sold the houses to Khalid without taking the possession. Khalid also could not obtain the possession.

In this situation, can Amar who has a right of preemption over the houses demand the preemption during the possession of Khalid, or not? What would happened to the right of preemption, if Khalid does not

execute the court order in his favor and surrenders the right of possession with or without compensation. Reply and be rewarded.

Answer:
In the stated situation, the claim of preemption does not apply to the houses because cessation of the ownerhip rights of owner in the property is required. It is in *Rad* as copied from *Al-Fatawa al-Sughra*, "Preemption depends on cessation of the ownership rights of the owner in the property." In the stated situation, the houses have not moved out from the ownerhip of Zayd according to the Sharia. The auction sale taking place without permission was a sale by a person who is not owner and this is called sale by an unauthorized agent (*faduli*) in the Sharia. Such a sale remains suspended till the permission of the owner. It is stated in *Khaniyyah*, "Where a seller sells asset of another, the sale would remain suspended till the permission of the owner, in our opinion." Zayd remained in possession of the houses till his death and died without permitting the sale, therefore, the sale has become void, so much so that the heirs of Zayd do not have the right to permit it. It is stated in *Hindiyyah*, "Where owner has died, the sale would not be effective by the permission of the heirs."

In reality, neither Bakr nor his heirs or Khalid are owners of the houses. All the houses are estate of the deceased Zayd. The heirs of Bakr only have the claim to the extent of the loan. The claim of preemption is in contract of exchange and not in tranfer through inheritance. It is stated in *Hindiyyah*, "Until sale or meaning of sale is found, the right of preemption would not arise; so much so that it would not arise in case of gift, remuneration, inheritance or bequest." Therefore, Amar does not have the right of preemption in this case. This is the injunction according to the Sharia and, certainly, injuction is one that is accordingly to the Sharia. And Allah the Exalted knows better. (20:115)

Chapter on Factors That Annul Preemption

Refusal to damand righ of preemption

Question: 16 Dhiqaddah 1321H.
If a person was informed about his right of preemption in presence of two men and that person refuses the preemption and he is now demanding the preemption, would he be entitled to preemption or not? Reply and be rewarded.

Summarized Answer:
If he has refused the right of preemption after the sale, even if he is unaware of the sale or he refuses upon knowing about the sale, the right of preemption would stand cancelled and he would not have the right to demand preemption. And Allah the Exalted knows better. (20:138)

Chapter on Miscellaneous Issues

Right of preemption over property of a deviant or non-Muslim

Question: from Nawab Abd Allah Khan (Badaun), 3 Rabi al-Awal 1328H. Does a follower of Hanafi school of law have right of preemption over (property owned by) a *Ghayr-i Muqallid* Wahhabi, or not? Reply and be rewarded.

Summarized Answer:
No doubt, he would have the right of preemption in such a situation. The right of preemption is stated without any condition in the books of law. There is no restriction that the seller or the buyer must be a *Muqallid* else the right of preemption would not arise. One who claims otherwise is required to present citation from authentic legal texts and this is not possible. Since all books of law state the injunction in an unqaualified manner, a restricted view cannot be maintainable. An unaware or ignorant person may have two doubts here. First, a *Ghayr-i Muqallid* does not believe in the right of preemption so he would be free from the demand of it. Second, *Ghary-i Muqallid* is opponent of Ahl-i Sunnah in the principles of faith, therefore injuctions of our *din* would not apply to him. Both of these doubts are void and meaningless. It is clearly stated in the books of laws that where a non-Muslim sells a property to another person and a Muslim

has the right of preemption over the property, the Muslim would have the right to demand preemption. And Allah the Exalted knows better. (20:159)

BOOK OF *QISMAH* (PARTITIONING/DIVISION)

BOOK OF PARTITIONING

Chapter on the Meaning and Nature of Partitioning (*Qismah*) 549
Partitioning without assigning parts to some of the heirs 549
Chapter on Entitlements in Partitioning/Division 551
Separate division of each unit of jointly own units 551

Chapter on the Meaning and Nature of Partitioning (*Qismah*)

Partitioning without assigning parts to some of the heirs

Question: (Pilibhit), 1 Jamadi al-Awla 1306H.
A person namely Akbar died leaving behind four sons, namely Dost Muhammad, Hafiz-Allah, Karim-Allah and Rahmat-Allah, and two daughters, namely Jivan and Moti. Later, Karim-Allah has died leaving behind a son, namely Nanho. Rahmat-Allah also died leaving behind two daughters, namely Ajoba and Muhammadi.

Dost Muhammad, Hafiz-Allah and Nanho appointed Zayd as mediator (*panch*) for division of deceased's estate but Jivan, Moti, Ajoba and Muhammadi did not consent for it. The mediator divided the entire estate of the deceased, comprising of the shares of all heirs according to Sharia, among the three individuals and stated in the deicion of mediator (*panchayatnamah*) that the three individuals would be liable to pay the shares of daughters of Akbar and Rahmat-Allah. All the four women do not agree to the decision.

In this situation, would the decision of the mediator be valid and effective, or not? Would the decision of the mediator be maintained or set aside? Reply and be rewarded.

Summarized Answer:
The said mediation is ambiguous and the division is non-sense and incomplete. The mediator has no right to interfere with the shares of the remaining heirs. A decision of a mediator applies only to the extent of persons appointing him and has not authority over others. Division according to the Sharia means separate share of every heir. Since there are not separate shares and the shares of the four women are mixed with that of other heirs, the division would not be called a division according to the Sharia. And Allah the Exalted knows better. (20:175)

Chapter on Entitlements in Partitioning/Division

Separate division of each unit of jointly own units

Question: from Muhammad Sadat Ali Khan (Rampur), 26 Shawal 1330H. Certain individuals are joint owners of some houses in a city. One of the owners wants division for his share in the houses, and he can get benefit from his share after the division. He wants that he gets share from every house. In this situation, does the Sharia require division of the houses in aggregate or separate division of every house? Reply and be rewarded.

Answer:
If his share in every house is such that it is beneficial, share from every house would be given to him and separate division of every house would take place. It is stated in *Dur*, "If certain houses are in joint ownership, every house would be separately divided whether these are adjacent or located in two localities or two cities." And Allah the Exalted knows better. (20:177)

BOOK OF *MUZARAAH* (SHARE-CROPPING)

BOOK OF MUZARAAH

Chapter on the Meaning and Rules of *Muzaraah* 555
Constructive right of the user of an asset 555

Chapter on the Meaning and Rules of *Muzaraah*

Constructive right of the user of an asset

Selected Question: from Muhammad Mubarak Allah (Muradabad), 26 Rajab 1329H.
(1) Does a farmer have a constructive right according to the Sharia, like a farmer who cultivates a piece of land for 12 years and cannot be ejected from the land by the owner under the English Law?

Summarized Answer:
Merely using the piece of land does not result in any right even if he cultivates over it for 20 years. Upon the completion of the term of *ijarah*, his separation from it and letting it (on *ijarah*) to another person would be permissible unconditionally according to the Sharia, whether the piece of land is in his ownerhip, is a *waqf* or owned by government. And Allah the Exalted knows better. (20:179)

BOOK OF SLAUGHTERED ANIMALS (*DHABAIH*)

BOOK OF SLAUGHTERED ANIMALS

Chapter on Rules for Slaughtered Animals 559
The Practices of Saints: On ruling about slaughter for gifting reward to *Awliya* 559
Chapter on Things Whose Consumption is Not Lawful 561
Things of an animal whose consumption is improper/prohibited 561
The Beautiful Giving: On disallowed things of a slaughtered animal 562

Chapter on Rules for Slaughtered Animals

The Practices of Saints: On ruling about slaughter for gifting reward to *Awliya*

Subul al-Asfiya fi Hukm al-Zibah lil Awliya (1312)

Question: 25 Rabi al-Awwal 1312H.
Where Zayd keeps a goat, Amar keeps a cow and a cock, and they slaughter or get these slaughtered by reciting *Allahu Akbar*, would it be permissible for Muslims according to the Sharia to eat the (meals cooked with) meat of these, or not? Reply and be rewarded.

Summarized Answer:
Permissibility or impermissibility of a slaughtered animal depends on the condition, wording and intention of the person slaughtering the animal rather than the owner of the animal. For example, an animal owned by a Muslim but slaughtered by a Zoroastrian (*Majus* or *Parsi*) would be impermissible whereas an animal owned by a Zoroastrian but slaughtered by a Muslim would be permissible. Zayd slaughters an animal owned by Amar and does not recite *takbir* intentionally, the slaughtered animal would

be impermissible, even if the owner is present and recites it 100 times. Where the person slaughtering recites *takbir*, the animal would be permissible even if the owner does not recite. Where the person slaughtering an animal slaughters it with intention to worship or special respect of anyone other than Allah, it would be impermissible, even if the intention of the owner was to slaughter it for Allah the Exalted.

Likewise, where the person slaughtering does so with the intention to do it for Allah, it would be permissible, even if the owner had intention for someone else. Considering the condition of the person slaughtering in all situations and denying it in this situation would be a void conclusion which is not supported by any evidence from the Sharia. And Allah the Exalted knows better. (20:269–279)

Chapter on Things Whose Consumption is Not Lawful

Things of an animal whose consumption is improper/prohibited

Question: from Sayyid Sabir Jilani (District Meerut)
Which things of a slaughtered animal are lawful to eat and which things are impermissible or prohibited to eat?

Answer:
All things of lawful animals are lawful except for those that are prohibited, diallowed or improper to eat (according to the Sharia): (1) Blood of veins, (2) gallbladder, (*pittah*), (3) urinary bladder (*mathana*), (4) vulva and penis, (6) testicles, (7) glands, (8) medulla (*haram maghaz*), (9) pair of trapezius (neck muscles stretching to shoulders), (10) blood of liver, (11) blood of spleen (*tilli*), (12) blood coming out of meat after the animal has been slaughtered, (13) blood of heart, (14) bile (yellow liquid in galbladdar), (15) nasal mucus, found mostly in sheeps, (16) anus, (17) tripe (*ojri*), (18) intestines, (19) zygote (*nutfa*), (20) embryo (zygote that has converted into blood), (21) fetus (embryo that has converted into flesh), and (22) matured fully-developed foetus that comes out as dead or dies without being slaughtered. And Allah the Exalted knows better. (20:240)

The Beautiful Giving:
On disallowed things of a slaughtered animal

Al-Minh al-Malihah fi ma Nahi min Ajza al-Dhabihah

Note: This booklet is yet to be found by the translator. In reply to the question preceding the last question (translated above), the author has stated as follows.

To the seven things mentioned in the hadith (as disallowed), our jurists added five things and this humble servant added ten more. The full details and complete research of the matters related to these 22 things and remaing branches and supplemental arguments may be seen in my booklet titled *The Beautiful Giving* (*Al-Minh al-Malihah fi ma Nahi min Ajza al-Dhabihah*). (20:240)

BOOK OF HUNTING (*SAYD*)

BOOK OF SAYD

Chapter on Hunting and Trained Hunting Animals 565
Conditions for hunting through hunting animals 565
Chapter on Shooting Instruments 567
Sharp edge of the instrument cutting the animal 567

Chapter on Hunting and Trained Hunting Animals

Conditions for hunting through hunting animals

Question: 21 Rabi al-Awwal 1320H.
Can an animal hunted by a dog be eaten by a Muslim, or not? If a rabbit is cought by a dog such that teeth of the dog have bitten the rabbit and most of the body of the rabbit is bitten by the dog, can the rabbit be slaughtered for eating where blood is circulating in the body of the rabbit and it is alive yet?

Summarized Answer:
Where (1) a trained dog, (2) that leaves the catch for the owner after hunting animal, and (3) does not eat the catch (4) is freed (5) to catch (6) a permissible animal (7) outside the limits of *harem* (a holy sanctuary) (8) that is wild and (9) can defend itself through feet or feathers, and (10) the dog goes straight towards the catch, does not engage in other acitivity or becomes unattentive, and (11) the dog kills the catch or hurts it in a condition that the animal has so little life as is present in a slaughtered animal from which life would vanish in a while, and (12) there was no involvement of any non-Muslim, Zoroastrian, Hindu, atheist or apostate,

like Christians, Rafdis, Naturis, Wahhabis, Qadiyanis etcetera of this era, in freeing the dog except of a Muslim or one among the People of Books, and (13) the hunting does not involve, with the dog, any untrained dog, astray dog or an animal whose hunting is not allowed, and (14) the person freeing the dog remains focused towards the hunt and does not get engaged in any other activity, then the animal so hunted would be lawful (for eating) without slaughtering.

If any of the 14 conditions is missing and the animal dies without being slaughtered, the animal would be prohibited (for eating). And Allah the Exalted knows better. (20:349)

Chapter on Shooting Instruments

Sharp edge of the instrument cutting the animal

Question: from Molvi Musharaf Ali (Bahraich), 15 Jamadi al-Awla 1307H. What would be the ruling for the animal hunted through firing by a gun if the firing is triggered while reciting *takbir*? Reply and be rewarded.

Answer:
If the animal (that has been gunned down) is found alive and is slaughtered, it would be permissible (to eat it) because of the slaughter, otherwise it must not be eaten. The ruling for firing by a gun is not the same as shooting an arrow. The tool required here is one that cuts through its own sharp edge taking life of the animal. There is no sharp edge in a bullet. A tool able to cut is needed whereas a bullet breaks into rather than cutting. It is stated in *Rad*, "It is not hidden that a wound by a copper bullet results from burning and push through the severe pressure because there is no sharp edge of a bullet; therefore, it would not make the hunted animal permissible; Ibn Nujaym has issued fatwa accordinlgy." It is stated in *Khaniyyah*:

> An animal hunted through firing by a gun is not lawful (for eating) even if it is injured because a bullet does not cut. However, if it has a sharp edge and can be shoot like an arrow and cuts it, then (eating) the animal would be permissible.

This also clarifies the doubt of some prominent ulema of Kanpur who declared that huting through a large copper bullet is prohibited because it is heavy and that through small bullets would be lawful because those small bullets are tiny. The reason is that the permissible does not depend on being slim or tiny, it rather depends on as to whether the tool has a sharp edge and it cuts, and this is not present in case of tiny bullets.

Have not you seen the statement in *Dur* that it would be permissible if the bullet is slim and has sharp edge. He did not restrict to it being slim but also added the words 'sharp edge' and did not stated an obvious condition which is being injured by cut caused by the sharp edge, as stated from *Khaniyyah*. This issue is frequently mentioned in legal texts; therefore, the valid view is that hunting through firing bullets is unconditionally disallowed. And Allah the Exalted knows better. (20:347)

BOOK OF SACRIFICE (*UDHIYYAH*)

BOOK OF SACRIFICE

Chapter on Rules for Sacrificial Animals 571
A Guide on Sacrificial Animals: On permission to sacrifice sheeps 571
The Clean Writing: On injunction about hides of sacrificial animals 572
Chapter on *Aqiqah* 572
Age of a goat for the purpose of *aqiqah* 572

Chapter on Rules for Sacrificial Animals

A Guide on Sacrificial Animals: On permission to sacrifice sheeps

Hadi al-Udhiyyah bil Shat al-Hindiyyah (1314)

Question: from Molvi Ahmad Hasan (Kanpur), Ramadan 1314H.
What is the opinion of the Hanafi jurists about ram (male sheep) and ewe (female sheep)? Is sacrifice of sheep permissible?

Summarized Answer:
The tail of sheep in our region is the same as sheep-tail fat (*alhyah* or *chakti*), and basis of sacrificing sheep and related injunction is present in the books of Hanafi school. There is no deficiency in tail of a sheep that could make it defective and sheep-tail fat is perfect, therefore, sheep cannot be classified as separate from fat-tailed sheep (*dumba*). Even if it is accepted that sheep lacks tail fat, it would still be classified as *anaam* and thus an animal eligible for sacrifice. There is difference of opinion between Imam Abu Hanifa and Imam Muhammad about this very animal; and we know that where imams do not have consensus on the opinion of an imam, which is against the

opinion of Imam Abu Hanifa, fatwa is according to the opinion of Imam Abu Hanifa. Allah knows better. (20:381–435)

The Clean Writing: On injunction about hides of sacrificial animals

Al-Safiyah al-Muhiya li Hukm Julud al-Adhiyah (1307)

Question: 29 Dhulhijja 1307H.
Is it permissible to sell hides of sacrificial animals for spending into acts rewardable by Allah, like helping a madarasa, installing masjid's carpets, lighting etcetera, in which no individual is made owner, not? Can such money be spent for such purposes? Is it obligatory *sadaqah* and a needy individual be made owner of such money? Reply and be rewarded.

Summarized Answer:
Where the hide of a sacrificial animal is not sold for financing own needs rather sold for spending on acts rewardable by Allah, then it would be permissible to sell it. Spending it on the acts in question is also permissible, even if a needy person is not made owner because the objective of sacrifice is to gain divine reward rather than making a needy the owner. For this reason, it is also permissible to give the meat of sacrificial animal to rich. In fact, sale of the hide of a sacrificial animal is disallowed where it is sold for financing one's own need. It is baseless to declare such money as obligatory *sadaqah*. If *sadaqah* of meat and hide of sacrificial animal is not obligatory, why would the *sadaqah* of its sale proceeds be obligatory, especially where nothing has arisen that could make *sadaqah* obligatory? And Allah the Exalted knows better. (20:509–560)

Chapter on *Aqiqah*

Age of a goat for the purpose of *aqiqah*

Selected Question: 14 Jamadi al-Akhira 1322H.
(1) Zayd bought two female goats for *aqiqah*. The seller's analysis is that age of the goat is 10.5 months, and same doubt exists about the other goat. Apparently, they are fat. Would sacrifice of these be valid, or not?

Summarized Answer:
(1) A goat that is less than one year in age is not allowed for sacrifice or *aqiqa*. If there is doubt, it would be considered as less than one year, especially where this is the opinion of the seller (who has no benefit in this opinion) being more aware than the buyer. And Allah knows better. (20:583)

BOOK OF BARRED AND ALLOWED ACTS (*AL-HAZR WA AL-ABAHAT*)

BOOK OF BARRED AND LAWFUL ACTS

Chapter on Faith and *Sirat* 577
A Clear Expression: On situations of exemption from certain prohibitions 577
The Strong Key: On injunction about accepting help from non-Muslims 578
The Blessings of Support: On seeking help from the Prophet and *Awliya* 578
The Understanding the 'King': On meaning of the word 'king' and its usage 578
Chapter on Reverence to Holy Relics 579
A Moon Full of Lights: On the reverence for noble relics 579
A Cure for the Gloomy: Images of the Green Dome and the Blessed Slipper 580
Chapter on Sufism and Spiritual Lineage 581
The Purity of the Predecessors: Discipleship and successorship in a sufi order 581
Sayings of the Sufis: On higher status of the Sharia and ulema 582
The Connecting Ruby: On spiritual contact between a pir and his disciple 582
Chapter on Eating and Drinking 583
Packaged butter and milk 583
Chapter on Pots and Jewelry 585
A Compact and Concise Note: On usage of gold and silver products by men 585
Chapter on Dressing and Style 587
Kerchief made of silk 587
Chapter on Glancing and Touching 589
The Meadows of Salvation: On rules for outdoor movement of women 589
Chapter on Salutation, Greetings and Respect for Sayyids 591
The Silver Plates: On greeting through shaking with both hands 591
A Shine over the Conversation: On recommendation for kiss of reverence 592
The Crux of Purity: On prohibition of prostrations of admiration 592
Chapter on Beard, Haircut and Circumcision 593
The Morning Light: On the length of beard 593
Chapter on Prayer and Purification 595
Impure dress 595
Chapter on Fasting, *Zakat* and *Hajj* 597
Fasting between *asar* and *maghrib* prayer 597
Chapter on Funeral, Visits to Graves and Shrines 599
Funeral prayers of a thief 599
Chapter on *Sadaqah* 601
A Defence from Drought and Epidemic: On inviting neighbors and serving poor 601
Chapter on *Dhikar* and Pray 603
Stopping a person from attending *mawlid* event 603
Chapter on Marriage and Divorce 605
Recording in marriage register of the qadi 605
Chapter on Lineage 607
Towards the Respectable Path: On guidance for the one with noble lineage 607
Chapter on Traditions and Customs 609
A Guide for Masses: On traditions and practices in wedding events 609
Chapter on *Hudud* and *Tazirat* 611
Blame without evidence 611

Chapter on Manners 613
The Sufficient Disclosure: On usage of phonograph for recitation of the Quran 613
The Spear-Piercing Arguments: On rebuttal of the Rafdis' call for prayer 614
Chapter on Beautification 615
The Removal of a Flaw: On injunctions related to dyeing white hair 615
Chapter on Employment and Earnings 617
The Best Wishes: On injunctions about earning and begging 617
Chapter on Education and Learning 619
Type of knowledge that is mandatory 619
Chapter on Events and Meetings 621
Organizing a *mehfil* on a fixed day 621
Chapter on Entertainment 623
The Issues about Qawwali*:* On adding music in singing Sufi lyrics 623
Chapter on Inviting towards the Good and advising againt the Bad 625
Reward of inviting towards good 625
Chapter on Deseases and Medical Treatment 627
The Reflecting Right: On injunction about visiting an ailing person 627
Making Good Deed Easy: On staying in area where plague has spread 628
Chapter on Love, Affection and Enemity 629
Affection for non-Muslims 629
Chapter on Opposition Among Muslims 631
Limit of the right of self defence 631
Chapter on Lies, Backbiting and Breaking Promises 633
Breaking a promise 633
Chapter on Claim, Court and Testimony 635
Conduct of a qadi and honorary magistrate 635
Chapter on Good Behavior and Public Duties 637
The Rights: On rights of parents and avoiding disobedience 637
A Torch for Guidance: On rights of children over parents 638
An Amazing Help: On discharging the human rights 638
Chapter on Mourning and Sorrow 639
Being sad during the first 10 days of Moharam 639
Chapter on *Taziyah* and Related Practices 641
A Huge Benefit: On *taziyahs* in India and speeches on the martyrdom 641
Chapter on Adopting Resemblance of Others (*Tashabba bi al-Ghayr*) 643
Principles about resemblance of others, like wearing dhoti 643
Chapter on Smoking and Betel Leaves (*Paan*) 645
Hookah (narghiles) smoking and consuming betel leaves 645
Chapter on Pictures 647
The Givings of the Powerful: On injunction about pictures 647
Chapter on Keeping Pets and Animals 649
Keeping birds for fun and fights 649
Chapter on Names of Individuals 651
The Divine Light and the Illumination: On injunctions about certain names 651
Chapter on Politics 653
Competency of a candidate for an elected position 653

Chapter on Faith and *Sirat*

A Clear Expression: On situations of exemption from certain prohibitions

Jali al-Nas fi Amakun al-Rakhs (1337)

Question:
Does the Sharia grant exemption from prohibitions in certain situations?

Summarized Answer:
Sometimes exemption is granted by the Sharia from certain prohibitions. It is obvious that neither every prohibition is allowed nor is there exemption from any prohibition everytime. Our jurists have specified five levels of wants: necessity, need, comfort, luxury and useless. The objective of Sharia is to protect five things: faith, sanity, lineage, life and assets. Except for useless activity, all acts relate to these five things. If protection of any of these five things is dependant on any act such that the protection would fail or nearly fail without the act, it would be a necessity. If the protection is not dependant but would require severe distress and problem, it would a need. Exemptions are granted by Sharia in necesscity of self and other Muslims, where it can be given. Exemption cannot be given for luxury and useless purpose, and merely for comfort. (21:201–215)

The Strong Key:
On injunction about accepting help from non-Muslims

Al-Ramz al-Marsaf ala Sawal-i Maulana al-Sayid Asif (1339)

Question: from Molvi Sayyid Asif (Kanpur), 16 Jamdil al-Akhira 1339H.
Should a Muslim accept help in worldly matters from non-Muslims?

Summarized Answer:
Allah's order, "O believers! Do not share your hidden matters with outsiders; they would not err in causing you hurt," is general and unconditional. Sharing secrets with non-Muslims is disallowed unconditionally, even in worldly matters. No advice should be sought from them. There is, however, no prohibition of transacting with non-Muslims as it does not involve sharing secrets. And Allah knows better. (21:231–45)

The Blessings of Support:
On seeking help from the Prophet and *Awliya*

Barkat al-Imdad la Hal al-Istamdad (1311)

Question: from Molvi Sayyid Asif (Kanpur), 16 Jamdil al-Akhira 1339H.
What is the reply for Wahhabis who interpret parts of verses of the Quran and quotations of Sufis to claim that no help be sought from other than Allah?

Summarized Answer:
Their interpretation is incorrect and attracts contradictions from many verses. The author then presents 33 hadiths and quotes from Wahhabi-recognized ulema to prove that seeking help from the Prophet and *awliya* considering them *wasila* (medium) is permissible. (21:301–37)

The Understanding the 'King':
On meaning of the word 'king' and its usage

Fiqh-i Shahanshah wa an al-Qulub bayad al-Mahbub bi Ata-i Allah (1326)

Question: from Molvi Sayyid Asif (Kanpur), 8 Dhilhajjah 1326H.
Can the word 'king' be used for other than Allah?

Summarized Answer:
This word and other words conveying the same have been part of titles and wordings of the Prophet, ulema and *awliya*. These are not used in literal and real meaning but are used as part of a title. (21:339–95)

Chapter on Reverence to Holy Relics

A Moon Full of Lights: On the reverence for noble relics

Badar al-Anwar fi Adab al-Asar (1326)

Question: from Sayyid Habib Allah (Ajmer), 28 Jamadi al-Akhira 1323H. (1) What reply can be given to a person who denies existence of noble relics? (2) What reply can be given to one who would refuse to admit relics if he is shown evidence from books that are more than 100 years old? (3) Is strong evidence required or popularity is sufficient to seek blessings through relics?

Summarized Answer:
(1) Such a person is ignorant of the Quran and the Hadith or is a deviant. Allah has informed, "No doubt, the first house decided for people is the one in Makkah, the blessed one and the guide to the world; it has clear signs in the stone on which the Prophet Abraham stood." This is a relic. The author presents five hadiths from *Sahih al-Bukhari* and *Sahih al-Muslim* and a statement from *Al-Shifa* as evidence for the reverence. (2) The author presents evidence from 16 books written few centuries ago as sample in support of reverence for relics. (3) Muslims have sought blessings from the Prophet's relics and mere popularity is sufficient for it. (21:397–24)

A Cure for the Gloomy: Images of the Green Dome and the Blessed Slipper

Shifa al-Wala fi Sur al-Habib wa Mazara wa Nalaha (1315)

Summarized Question: from Molvi Abd al-Rahim Khan (Riwan), 26 Dhilhajjah 1315H.
Is it permissible to draw image of the Prophet? Would the maker and buyer of such an image be committing sin by doing so? What is ruling about the drawing of the Green Dome and keeping it for view and reverence?

Summarized Answer:
The Prophet has stated prohibition of making, getting made and keeping images, has told about the severe punishments for these acts, and ordered distruction of images. The author then quotes 21 hadiths in support of his fatwa. Drawing of the Green Dome and keeping it for view and reverence is permissible and has been a practice of Muslims. (21:425–58)

Chapter on Sufism and Spiritual Lineage

The Purity of the Predecessors: Discipleship and successorship in a sufi order

Naqa al-Salafah fi Ahkam-i Bayyat wa al-Khilafah (1319)

Summarized Question: 25 Jamadi al-Awla 1318H.
What is the need for a Sunni Muslim to become a disciple in a sufi order?

Summarized Answer:
The Sharia, the *Tariqah* and the *Haqiqah* all are given in the Quran and the Hadith. The most apparent and the easiest among these are the issues of the Sharia, and even these are such that if the imams had not written commentaries about these, ulema would not have understood these. If ulema had not explained these to us, we could not understand these. Where this is about the level of the Sharia that is so apparent, it would be impossible for a person to understand the fine meanings in *suluk* (sufism) and reality of *marifah* without a pir (*murshid*) from the Quran and the Hadith. Our imams have informed that a person must make one among the *awliya* his pir, irrespective of the level of knowledge of that person. (21:461–67)

Sayings of the Sufis: On higher status of the Sharia and ulema

Maqal al-Urfa ba Azaz-i Shara wa Ulema (1327)

Summarized Question:
Zayd says that the declaration of the Prophet (Allah's peace and blessing upon him), "Ulema are the heirs of the Prophets" is about the ulema of Sharia and *Tariqah*. Amar opposes Zayd's view. What is your fatwa on it?

Summarized Answer:
The ulema of Sharia are certainly the heirs of the Prophets. A person's sufi practices (act on *Tariqah*) is acceptable only where he adheres to the Sharia. Any act that contradicts the Sharia, even if it is claimed to be part of *Tariqah*, is an act of deviance from Islam. The author then presents 60 statements from books of sufi masters in support of his fatwa and writes that these are actually 80 statements of 40 sufi masters. (21:521–68)

The Connecting Ruby: On spiritual contact between a pir and his disciple

Al-Yaqut al-Wasta fi Qalb-i Aqd al-Rabta (1309)

Summarized Question:
A person imagines presence of his pir during *maraqba* or *dhikr* as a medium for spiritual support. Is this permissible? Please quote legal sources for it.

Summarized Answer:
Imagining the pir (*tasawwur-i shaykh*) also called *shughal-i barzakh* as has been practiced by sufi masters for centuries is stated in their books, letters and discourses. There is no evidence against it in the Sharia. The Wahhabis who oppose it do not have any evidence. In fact, those ulema who are considered by the Wahhabis (of undivided India) as their predecessors and teachers have given evidence in support and defence of such practices in their books. The author proceeds to present 30 statements from books of ulema and teachers of the Wahhabis specifically supporting the practice of *shughal-i barzakh*. (21:569–96)

Chapter on Eating and Drinking

Packaged butter and milk

Question: from Sayyid Muhammad Yosuf Ali (Jutial, Gilgit Cantonment), Shaban 1312H.

After greetings, it is requested that reply to this question be given urgently because letters are delivered at this place after much delay because of snowfall. The answer would reach me in two months. I could not recall anyone other than you at the moment (to seek the reply) therefore I seek your reply as most of the people here do not know (the injunction of Sharia in this regard). The following questions require your answers. Regards.

(1) Is it permissible to use English imported butter, made of cow milk, available here in tin packaging, or not? The box contains picture of cow.

(2) Similarly, is it permissible to use cow milk imported in tin packaging? Some people view it as good whereas others have objection over it. No body has seen actual production process and their views are based on heresay.

(3) Is it permissible to use a tooth brush instead of wooden *miswak*? Some people say that its handle is made of ivory and bristles are made of hair of horn. If we assume that bristles are made of hair of horn, would it be permissible to take the brush into mouth? The view that it is made of ivory is based on wisdom rather than any news.

(4) I have slaughtered a goat myself and cooked it. An Englishman cut it with knife and fork but has not touched it. Would it be permissible if a person ignorant of the situation eats it?

Summarized Answer:
(Serials 1 to 3) Things are considered as allowed and lawful until the research shows that any impure or prohibited elements is mixed in it. Mere doubt is not sufficient to declare it dirty and impermissible. Similar is the ruling for edible products manufactured by the Polytheists, non-Muslims and ignorant and illiterate Muslims, because these products cannot be presumed to be impure merely because of doubt. Yes, it would be better if he avoids these upon hearing the news creating doubts, however, these cannot be declared impermissible and forbidden. Horn of every animal, and even that of a dead animal, is pure and it would be permissible to take brush made of it into mouth. However, brush made of hair of pigs is dirty and its usage would be forbidden. In fact, skipping the sunnah of using *miswak* for brush used by the Christians is ignorance and non-sense.

(Serial 4) There is not blame on one who eats it. Yes, it is necessary to avoid eating with a non-Muslim especially with the Christians in these areas or, Allah forbid, eating or drinking the things left unused by them. (21:619)

Chapter on Pots and Jewelry

A Compact and Concise Note: On usage of gold and silver products by men

Al-Tayyab al-Wajiz fi Imtat al-Waraq wa al-Abriz (1312)

Question: from Hafiz Yaqin al-Din (Province of Barar), 27 Rajab 1309H. Is it permissible for men to use domed (*ghundi*) button (*tukma*), button loops and chainless cufflinks (*botaam*) made of silver or gold on shirts, or not? Some people call these as impermissible and say that use of gold and silver is unconditionally prohibited for men. Is such an opinion correct? If it is incorrect, which items made of silver or gold are permissible for men? What are the conditions for use of silver ring by man? Reply and be rewarded.

Summarized Answer:
The use of gold or silver cufflinks as stated in the question is permissible. The permissibility is evident from the citations of *Siyar-i Kabir*, *Zakhira*, *Muntaqa*, *Tatarkhaniyyah*, *Dur*, *Tahawi*, *Hindiyyah* and other reliable texts. It is incorrect that use of gold or silver for men is unconditionally prohibited. The Sharia has prohibited numerous situations for usage of gold and silver, but it has allowed many situations too. For example: (1) domed button made of gold, (2) button made of gold, (3) golden pin in stone of ring,

(4) golden prongs in silver ring, (5) golden pin in doors, boxes and pen holders, (6) gold-threaded fabric in borders of sheets, shirts etcetera, (7) gold- or silver-printed dress, (8) gold-plated pots, (9) golden wire in a product if the body part remain separate from it, (10) silver belt, (11) silver band worn around waist, (12) silver handle of a sword, (13) silver dental splint for fixing loose teeth, (14) teeth made of silver, and (15) silver and golden armor and gloves for troops in jihad. (22:131–45)

Chapter on Dressing and Style

Kerchief made of silk

Question: 20 Ramadan 1317H.
Is it permissible, impermissible or improper for men to keep kerchief made of silk in hand or in pocket? If it is improper, would it be prohibitory (*tahrimi*) improper or *tanzihi* improper? Reply and be rewarded.

Summarized Answer:
It is permissible to have it in hand, keep in pocket or whipping face with it. Placing it on shoulder is *tahrimi* improper. In reality, Imam Abu Hanifa, Allah be pleased with him, has the view that wearing silk is forbidden for men and other usages of silk are allowed. Placing it on shoulder would be like wearing it whereas keeping it in hand or in pocket is not like wearing it. It is stated in *Rad*:

> Hanging a prohibited thing is similar to wearing it because a doubt is like a certainty under the chapter of prohibitions. Bag is a thing that may be hanged, like bag of amulets, because it is hung on the neck. This is opposed to a bag to keep dirhams (a wallet) which is kept in pocket. It is stated in *Durar al-Muttaqa* that it is not improper to offer prayer on a prayer mat made of silk because wearing silk is prohibited but using silk

for purpose other than wearing it is not prohibited, as stated in *Salat al-Jawahir* and al-Qahqisani and other jurists have maintained this view.

It is also stated in the same book:

It is stated in *Quniyyah* that where a broker loads silk cloth on his shoulder for selling, this act would be permissible if he does not insert both arms in the sleeves. Al-Karabisi has said that there is difference in views over it amoung *mashaykh* (jurists). The reason for the first statement is that loading on shoulder means lifting rather than wearing. Therefore, it would not be called wearing. This point requires attention.

It is also stated in the same book:

Wearing it is prohibited and other usage of it is not prohibited. In my view, the outcome is that drying hand and face with a kerchief made of silk is permissible if it is not caused by pride (*takabbur*). The reason is that it would not amount to wearing either in reality or in law. This is different from blanket, button and bandage. This point requires attention.

This is what has appeared to me on the subject matter. And Allah the Exalted knows better. (22:175)

Chapter on Glancing and Touching

The Meadows of Salvation: On rules for outdoor movement of women

Muruj al-Nijah li Khuruj al-Nisa (1316)

Summarized Question:
(1) Is it permissible for women to enter a house where *mahram* and *ghayr mahram* males and females are present, or not? (2) Is it permissible for women to go and attend a festive or sad event in a house where where *mahram* and *ghayr mahram* males and females are present, or not?

Summarized Answer:
Before the replies to the questions, certain principles need attention and would be helpful in understanding the related injunctions of the Sharia.

(1) The basic principle is that it is unconditionally permissible for a woman to visit her *mahram* males' and females' houses to wish health to a patient, offer condolence, for any allowed religious purpose, for a worldly need or just to meet them. The only condition is that the meeting does not exposes her to a thing or activity disallowed by the Sharia, like her body parts required to be covered are not visible, the gathering does not have people of bad conduct, the event is not disallowed by the Sharia, it is not a

dance or music party, it is not a gathering where shameless ladies are present, it does not have Sharia-prohibited singing, it does not involve calling names, it does not involve seeing or presenting to show *ghayr mahram* groom, and it is not a night party for drumming or singing.

(2) It would not be permissible for women to attend festive or sad events, for *ziyarah*, to wish health to a patient, or for attending any event at strangers' houses where all the males and females are her *ghayr mahram*, even with the permission of her husband, and he would commit a sin if he permits her, except in the situations stated below and even in those situations it would be mandatory to cover herself properly, be careful and secure herself from *fitnah* to maximum extent.

(3) The house of a person means the house of his dwelling rather than the house in his ownership. For example, where her brother is tenant of another person's house, it would be permissible for her to go to that house, and where a stranger is living in house owned by her brother, it would not be permissible for her to go to that house.

(4) The *mahram* males are those with whom her marriage is prohibited forever because of near relation, and there is no possibility of it becoming lawful. The husbands of her sister, paternal aunt or maternal aunt are not *mahrams* because her marriage is possible with them after end of their marriage with her sister, paternal aunt or maternal aunt, respectively. Near relations also include the relation of *mahram* created by fosterage and marriage (*musaharat*). However, young women especially beautiful ones should avoid them unless there is a need. As compared to virgins, this avoidance should be more for married women because they neither have that much shyness (*haya*), fear, reluctance, awe-inspiring presence, nor there is much surveillance for them and the attraction is more for one who has the experience (of marriage) as compared to the one who is unaware or stranger to the experience, accordingly, barriers for them are lower and the requirement (of the Sharia) is higher.

(5) The *mahram* females are those who have such a relation that marriage with each other would be a permanent prohibition if any one of the two is assumed to be a male. The prohibition from one side is not sufficient here. For example, daughter in-law and mother in-law are *ghayr mahram* because they would be strangers if any of them is assumed to be a male. Even step mother and daughters are not *mahram* of each other because although there would be a forever prohibition if daughter is assumed to be a male since her father married her step mother, but if the mother is assumed to be a male, both women would be strangers because the mother (assumed to be a male) would then have no relation with her father.

(6) As for the houses other than those of *mahram* or strangers, she can go there with her *mahram*, and live there if there is cover and protection.

(7) The author lists nine situations in which she may enter all houses. (22:221–33)

Chapter on Salutation, Greetings and Respect for Sayyids

The Silver Plates: On greeting through shaking with both hands

Safayh al-Lujayn fi Kon-i al-Tasafah bi Kafi al-Yadyn (1306)

Question:
Is shaking with both hands permissible, or not? Is the claim of *ghayr muqallid* sect that it is unlawful and against hadiths and shaking with one hand valid?

Summarized Answer:
Greetings by shaking with both hands is certainly permissible. Our senior ulema have declared it an act that is sunnah and approved (*mandob*), and there is no hadith that proves otherwise. (1) The author presents citations from the Quran and the Hadith to prove that where an act with one hand is permissible it would definitely be permissible with both hands. (2) The hadith quoted as proof of shaking with one hand comprises of a question by a man and the reply by the Prophet. The word 'a hand' is part of the question and the Prophet responded by saying 'yes' so there is no statement from the Prophet with the words 'a hand.' (22:269–314)

A Shine over the Conversation: On recommendation for kiss of reverence

Abr al-Maqal fi Istahsan-i Qublat al-Ajlal (1308)

Summarized Question: from Molvi Abd al-Haq (Surat) and from Molvi Lutuf Allah (Aligarh), 13 Dhilhajjah 1308H.
In a masjid, a piece of the cover of Kaaba with length of 2 yards and width of 1.25 yard is hanging on the wall besides the mihrab. After the regular prayers, people kiss it. On Fridays, there is a big crowd for it. Is it lawful?

Summarized Answer:
Kiss of reverence (*bosah-i tazimi*) is a method to show respect as per customs and the Sharia. The practice of kissing the door of Kaaba, kissing the Quran, kissing a bread and kissing the hands and feet of ulema and *awliya* are its examples, as detailed in *Dur* and other reliable texts. The act of the Companions to kiss the Prophet's hands, feet and noble Prophetic stamp on his body is reported in numerous hadiths. (22:341–52)

The Crux of Purity: On prohibition of prostrations of admiration

Al-Zubdat al-Zakiyyat li Tahrim-i Sujud al-Tahiyyat (1337)

Summarized Question: Molvi Abd al-Sami (Banaras), 9 Ramadan 1337H. Is prostration of admiration to any creature permissible or not? The questioning person quotes a writer Bakr who claims that the prostration of admiration is permissible and cites verses from the Quran and presents his interpretation of the verses and various hadiths to support his view?

Summarized Answer:
The author has divided his reply into six parts to prove that prostration of admiration is prohibited. In the First Part, the author quotes the verse of the Quran for prohibition of prostration of admiration and the citations from commentaries on the Quran. In the Second Part, the author cites 40 hadiths that prove the prohibition of prostration of admiration. In the Third Part, the author cites 110 statements from the books of jurists for the prohibition of prostration of admiration. In the Fourth Part, the author presents evidence of prohibition from the books of Bakr and the authors relied upon by Bakr. In the Fifth Part, the author highlights fabrications, falsehood, dishonesty and ignorance reflected in the Bakr's writing. In the Sixth Part, the author discusses the prostration to the Prophet Adam and that to the Prophet Joseph and rebuttal of the permissibility assumed by Bakr in his writing from those events. (22:425–537)

Chapter on Beard, Haircut and Circumcision

The Morning Light: On the length of beard

Lamat al-Duha fi Afa-i al-Liha (1315)

Summarized Question: from Hyderabad, 20 Jamdi al-Akhir 1315H. Walid has the following claims.

> Shaving beard is not prohibited because a prohibited act is one prohibition of that is proved by decisive argument which does not have any doubt. The prohibition is not stated in the Quran and in famous hadiths. The hadiths that describe natural acts do not mention keeping beard. Since we have been ordered to oppose the practices of the Polytheists, some of them have beard so we may shave it, and some of them shave it so we may keep it because general opposition has been ordered so we may oppose any one practice. Keeping beard is not part of ethics (*akhlaq*) because it is not mentioned in the Quran which is a complete book. Therefore, keeping beard can be a recommended act (*mustahab*) or at most a sunnah and even that would be of reasonable limit.

What do you say the above words of Walid? What is the rule for beard?

Summarized Answer:
(1) Allah the Exalted has given vast knowledge to the Prophet, Allah's peace and blessings upon him. The Prophet has ordered in a hadith:

> Does any of you, sitting on a bed with the support of a pillow, think that Allah has only prohibited the things stated as such in the Quran? Listen! Swear to Allah, I have issued orders, have advised, and have prohibited a lot of things that equal to more in numbers than those prohibited by the Quran.

Walid has claimed that the order to keep beard is not stated in the Quran and he is opposing the hadiths by saying if keeping beard was part of ethics, it would be stated in the Quran. Thus, he is the one who has been advised in this hadith.

(2) People like Walid not only deny the Hadith but also blame the Quran and, thus, state Islam as incomplete. After the denial of the Hadith, only those injunctions remain intact, according to their view, that are stated in the Quran; all other injunctions are not ethics and thus excluded from Islam.

(3) Walid's claim about the prohibition mentions the Quran and also famous hadith and this is his shrewdness and self-contradiction. If an injunction is stated in the Hadith, would not it be included in the ethics?

(4) His argument would also rebut the Juristic Consensus (*Ijma*) and the Juristic Analogy (*Qiyas*). Thus, he has rendered all sources of the Sharia as useless.

(5) He has claimed opposition of the Polytheists in keeping and shaving beard which amounts to mockery of the hadith.

(6) The difference between mandatory and obligatory, and between prohibited and improper is in relation to belief because one who denies mandatory and prohibited would be committing indifelity, as compared to the other ones. However, the injuctions is the same for both.

(7) The instruction pointing towards keeping beard is stated in the Quran. Allah the Exalted has ordered, "No doubt, there is good example for you in the manners of the Prophet, for the ones who fears Allah and the Last Day and often remember Allah." Keeping beard is sunnah of the Prophet. The Prophet kept its, continued keeping it entire his life, protected it, insisted for keeping it, and advised for maintaining it.

The author then presents numerous hadiths and reports from the Companions in support of having beard and in opposition of shaving or trimming beard. On the length of beard, the author adds that it should be kept to the extent of the width of a fist and keeping a very long beard is improper. The author presents a table of 30 punishments, warnings and criticism from the Quran and the Hadith for trimming or shaving beard. (22:607–77)

Chapter on Prayer and Purification

Impure dress

Question: from Haji Abd al-Ghani (Bareilly), 13 Dhiqaddah 1314H.
Zayd needed to bath. He took bath with the impure trouser. After this, he removed the trouser and tried to wash it and touched the water container. The touch made the water container impure. Amar, upon the thought that Zayd has touched the water container with impure hand, broke the water container. Would the compensation for the water container be an obligation for Zayd or Amar who broke the container? Reply and be rewarded.

Answer:
The person who broke the container is liable for the compensation. If Zayd touched the container after the trouser had been purified, the container was not impure because a thing purified by hand results in the thing and the hand both becoming purified. And Allah the Exalted knows better. (23:102)

Chapter on Fasting, *Zakat* and *Hajj*

Fasting between *asar* and *maghrib* prayer

Question: from Abd al-Sattar (Gondal, Kathiawar), 9 Shaban 1334H.
Some people in this region do not eat or drink anything between after noon (*asar*) prayer and evening (*maghrib*) prayer. They call it afternoon (*asar*) fasting and describe many benefits of it. One benefit stated by them is that when the Satan would bring water near the time of death for deceiving, the person fasting now would recall the time of *asar* and considering himself as fasting would respond to the Satan that the person is fasting. Thus, he would refuse to drink the water, the Satan would be unable to influence him and the person would be safe from becoming deviant. Are this fasting and its benefit valid or not? Does this (practice) has any basis in our legal texts or not? If not, how is it to act according to it with the belief of getting divine reward? Regards.

Answer:
There is no basis of such a practice in the Hadith and Jurisprudence. It is a practice of some *mashaykh* and there is not harm in acting upon it. It is better to abstain from wishes to the extent possible. And Allah the Exalted knows better. (23:106)

Chapter on Funeral, Visits to Graves and Shrines

Funeral prayers of a thief

Selected Question: from Haji Ghulam Muhammad (Amritsar), 6 Rabi al-Awwal 1339H.

(1) A man is a habitual thief and is a famous and severely wicked person. In fact, he is listed among top 10 wicked persons in government offices. His economic activities during entire life have been theft and gambling. He also skipped mandatory prayers and fasting. In short, he has spent his life in theft, gambling and other immoral acitivites. He has died without repenting (*toba*). What is the injunction for leading or offering his funeral prayer as per the Hadith and the Jurisprudence?

Summarized Answer:

(1) Irrespective of his misconduct and sinful activities, even if he died without repenting, his funeral prayer is required to be offered where he died as a Muslim. The Prophet, Allah's peace and blessings upon him, has ordered, "It is mandatory to offer funeral prayer for every Muslim whether he was a good or bad person and even if he used to commit major sins." It is stated in *Dur*, "Where a Muslim has died, it would be public duty (*fard-i*

kafayah) of Muslims to offer his funeral prayers, except for four types of persons;" and those four do not include him. And Allah the Exalted knows better. (23:112–13)

Chapter on *Sadaqah*

A Defence from Drought and Epidemic: On inviting neighbors and serving poor

Rad al-Kahat wa al-Waba bi Dawat al-Jiran wa Mawasat al-Fuqara (1312)

Question: from Molvi Ahmad-Allah (Kanpur), 17 Rabi al-Akhir 1312H.
In our region, there is a practice that, if there is cholera (hayzah), smallpox, drought etcetera, the Muslims of the locality would gather to contribute rice, wheat, money etcetera to cook meal in the name of Allah the Exalted for defence against such a calamity. They invite ulema and Muslims of locality over the meal to eat together. Would it be permissible for the Muslims of locality to eat that food, or not?

Summarized Answer:
It is permissible for the invited Muslims to eat that food. There is nothing in the Sharia for disallowing it. If you analyse, the event would be a prescription of numerous medicines because poor, needy, ulema, pious, loved ones, relatives and neighbors would eat that food. This would have eight qualities: good of *sadaqah*, service to pious, kindness, cooperation with

neighbors, making Muslims happy especially the poor, providing them their favorite food, giving food to Muslims, and gathering of Muslims for eating. When these acts are carried out with good intention, pleasing Allah would help in seeking pardon for wrong and defence against calamities. It is apparent that drought, epidemic, every hardship and calamity results from sins, therefore, seeking mercy, forgiveness and blessings are certainly good cures for these. The author then presents 60 hadiths in support of his fatwa and then lists down 25 benefits of the practice stated in the question. (23:135–61)

Chapter on *Dhikar* and Pray

Stopping a person from attending *mawlid* event

Question: 29 Jamadi al-Akhira 1320H.
Certain individuals prevented five persons from attending a *mawlid* event. What is fatwa about one who stops another person from *dhikr-Allah*? Is an event of *dhikr-Allah* is limited to special ones or for masses? Reply and be rewarded.

Answer:
Dhikr-Allah is for all Muslims. Stopping a Muslim from attending a *mawlid* event which is being held according to the practice of the two holy sanctuaries, comprises of teaching authentic reports and is free from Sharia-disallowed activities is certainly stopping him from *dhikr-Allah*. If a person stops him without valid and acceptable reason, he would be among persons who cross the limits defined by Allah.

Yes, (stopping) for Sharia-recongized need is recommended and there would be no blame on him if he stops for another more important act, for example, parents are sick and he is their caretaker and they would be in problem if he goes to attend the *mawlid* event, and similar situations, then the person would have the right to stop him. Similarliy, a master can stop his slave and an employer may stop his employee for work. Our jurists have

stated that a laborer doing work for wage must not offer supererogatory prayer during the working hours; and where this is the injunction for an employee who is neither bought or owned by the employer, then what would be injunction for slave and a person owned by him. And Allah the Exalted knows better. (23:176–77)

Chapter on Marriage and Divorce

Recording in marriage register of the qadi

Question: from Saleh Muhammad Khan (Bulandshahr), 28 Dhiqaddah 1335H.
If a marriage contract is completed by a person other than the qadi of the city according to the Sharia, and the entry of the marriage is not recorded in the register of the qadi, would the marriage contract be permissible and valid, or not? Reply and be rewarded.

Answer:
Recording in the marriage register of qadi is not a condition for marriage contract according to the Sharia. The registers have been introduced in the modern times. How did the marriage contracts take place in past? Yes, it is good to do so for record purposes. And Allah the Exalted knows better. (23:194)

Chapter on Lineage

Towards the Recpectable Path: On guidance for the one with noble lineage

Arat al-Adab li Fadil al-Nasab (1329)

Question:
Would it be justified to call the descendants with the words referring to the professions of their ancestors who carried out farming, fabric making or sale of seafood whether the profession is continued by the descendants or not, if the calling them in this manner hurts them, or not? Would it be permissible to call a person 'shaykh' if he is not among the descendants of any of the Companions, or not? Reply and be rewarded.

Summarized Answer:
Calling any Muslim or even a *dhimmi* with words that would hurt him or her emotionally, without any Sharia-recongnized need, is impermissible and prohibited according to the Sharia, even if the wording reflects the factual situation. The research shows that salvation (*nijat*) of individuals depends on piety (*taqwa*), according to different levels and respective impacts, rather than merely on the lineage. However, the Sharia has differentiated based on lineage in many injunctions, and relation with a nobel lineage would

certainly be beneficial in the Hereafter (*Akhirah*). The entire Chapter on Equality of Status (*Kafaah* in Marriage) under the Book of Marriage relates to the recognition of this difference.

The author then proceeds to report hadiths in superiority of the Quraysh in general and Sayyids in particular. (23:201–57)

Chapter on Traditions and Customs

A Guide for Masses: On traditions and practices in wedding events

Hadi al-Nas fi Rusom al-Aras (1323)

Question: from Molvi Ahmad Hasan (Madarasa Faiz-i Aam, Kanpur), 21 Jamadi al-Awla 1312H.
There is a tradition in our area that various types of fun activities (*tamasha*) are carried out on the day of a marriage, including fireworks, firing, singing, drumming, stick dance etcetera. With all this, the groom rides over palanquin (*palki*) to travel to house of the bride. Are all these activities permissible according to the Sharia, or not? Regards.

Summarized Answer:
Riding palanquin is allowed and lawful for the groom. The reason is that it is among those traditions on which the Sharia has no objection. Games like firing, throwing stick and similar games would be permissible, where these are not unsafe for self and others, if they are played with beneficial intention like expertise in the art of fighting rather than merely for fun (*lahu*) and play (*laeib*). It would be improper if these are carried out as amusement. Firework as prevalent in marriages is certainly prohibited and it involves wasting

money. Likewise, singing and dancing that are prevalent in this region are certainly impermissible and forbidden. (23:277–89)

Chapter on *Hudud* and *Tazirat*

Blame without evidence

Question: from Ahmad al-Din (Kampbond), 12 Shawal 1334H.
Zayd is prayer lead (*imam*) at a masjid. Some people have blamed him that he committed adultery (*zina*) with so-and-so woman. Upon the demand of testimony on oath, none of them is willing to be eye witness; and they claim that they have heard so-and-so saying as such, and those so-and-so refer the blame to another person. There is no eye witness. In this situation, some Muslims are avoiding to offer the congregational prayers led by Zayd. If Zayd is asked to seek pardon, as a precaution, would the congregational prayer led by him be valid, or not? Masses say that they would not offer prayer led by Zayd until ulema issue a fatwa. In this situation, if Zayd seeks foregiveness from Allah and then offers prayer, would it be permissible to offer prayer behind him, or not? How many and what type of witnesses are required to testify for adultery? Regards.

Answer:
It is prohibited to assume malafide of a Muslim. Four reliable and pious men as eye witnesses are required (to prove adultery) and whosoever makes such a blame without witnesses, he or she would be liable to 80 lashes. There is no harm in Zayd leading a congregational prayer. A Muslim must always

seek foregiveness from Allah the Exalted. And Allah the Exalted knows better. (23:326–27)

Chapter on Manners

The Sufficient Disclosure: On usage of phonograph for recitation of the Quran

Al-Kashf Shafiyah Hukm-i Phonojaraphiyyah (1328)

Question: from (Rampur), 12 Ramadan 1328H.
Is it permissible to listen recitation of the Quran from phonograph, recording it, accepting employement for this work or work for it on wages or do it free of cost, or not? What is the injunction in this regard for *hamd* and *naat*? Is using it to listen songs of women similarly prohibited as without it, or not? Reply and be rewarded.

Summarized Answer:
The injunction in the matter requires understanding of the difference between a photograph and phonograph. A photograph is different from the person and is merely a shadow or image. However, where a reciter's recitation is recorded in phonograph, it would be the real Quran present in that and what is heard from it would be the voice of the reciter in reality and same recitation of the Quran being heard, and the voice being heard not be an approximation or image of his voice and the recitation is the Quran rather than an example or copy. Similar is the case of sound of

musical and other instruments. Therefore, these are also the same voices in reality rather than symbols or copies. (23:411–70)

The Spear-Piercing Arguments: On rebuttal of the Rafdis' call for prayer

Al-Adlat al-Taanat fi Azan al-Malaanat (1306)

Question: from President of Anjuman Muhib-i Islam, 21 Dhiqaddah 1306H.
The Rafdis/Shitte (of Indian Subcontinent) have added the wordings "the direct Caliph of the Prophet of Allah" for Hadrat Ali in their call for prayer etcetera. Is hearing of it for Ahl-i Sunnah like *tabarrah* (insult of the Companions and their friends) by the Shitte, or not? And would it be rewardable if effort is made to stop this act, or not? Reply and be rewarded.

Summarized Answer:
The said addition is certainly *tabarrah* and hearing it by a Sunni is hearing *tabarrah* in reality. The reason is that it negates the caliphate of the first three caliphs. By this negation, they do not mean that three caliphs did not govern rather they mean that Hadrat Ali had the right to be caliph instead of them and they did not give that right to Hadrat Ali. The author then cites seven statements from the Shitte books to show that adding this wording is against their own books, adding any wording in call for prayer is sin according to Shitte authors, and condemnation of those who add wording in call for prayer by Shitte authors. (23:471–80)

Chapter on Beautification

The Removal of a Flaw: On injunctions related to dyeing white hair

Hak al-Ayeb fi Hurmat-i Taswid al-Shayeb (1307)

Question: from Muhammad Shafi Ali Khan (Kohna), 23 Rabi al-Awwal 1307H.
Is it permissible to use indigo leaves (*wasma*) for dyeing hair to black color, or not? Is it allowed to mix indigo leaves in hennah for dyeing, or not? Reply and be rewarded.

Summarized Answer:
The correct view of Hanafi school of law on the subject is that blackening of hair is unconditionally prohibited, except during jihad. The prohibition is proved from validly-transmitted and authentic hadiths. The author then proceeds to present hadiths and statements from Hanafi texts in favor of dyeing hair with colors other than black and prohibition of blackening hair.

In sum, the injunction on this issue depends on the color resulting from the dyeing of hair. For example, if the dye of hennah results in black color, it would be prohibited. And if dye of indigo results in orange or red color, it would be permissible. Likewise, if the powder of hennah, indigo or

anything else that results in blackening of hair, its usage would be prohibited. And Allah the Exalted knows better. (23:495–506)

Chapter on Employment and Earnings

The Best Wishes:
On injunctions about earning and begging

Khayr al-Amaal fi Hukm al-Kasab wa al-Sawal (1318)

Question: from Molvi Umid Ali (Bengal), 27 Jamadi al-Akhira 1318H. Describe the situations in which earning becomes mandatory (*fard*), recommended (*mustahab*), improper (*makruh*) and prohibited (*haram*). When does begging become permissible and when does it become impermissible? Reply and be rewarded.

Summarized Answer:
Earning has a source that brings wealth and a purpose for which that wealth has been earned. These may be mandatory, obligatory, sunnah, recommended, allowed, *tanzihi* improper, *asaat* (one between the two types of improper), prohibitory improper or prohibited depending on inherent attribute or a situation.

Source of earning may be prohibited, like unlawful possession, bribery, theft, *riba*, adultery (*zina*), singing and void or vitiated agreements. It may be

prohibitory improper, like trading at the time of call for Friday prayer. It may be *asaat*, like accepting a judicial position in presence of a more competent and willing person. It may be slightly improper, like *inah* sale. It may be allowed, like taking firewood from forest, hunting from jungle or fishing from river. It may be recommended, like employment of ulema. It may be sunnah, like accepting gifts from loved ones and giving gifts to them. The most preferred and the best source is jihad under the governance of a sultan of Islam. It may be obligatory, like accepting gifts from parents where it is expected that non-acceptance would hurt them.

The purpose of earning may by mandatory, like necessary foods, drinks, and dress to perform mandatory duties, ability to pay debt, maintenance of dependents. It may be obligatory, like food that gives strength to offer obligatory acts. It may be sunnah, like dress that is according to sunnah. It may be recommended, like arranging for madarasa or bridges. It may be allowed, like jewelry for women. It may be *tanzihi* improper, like different kinds of fruits for eating by oneself. It may be *asaat*, like best meals or fine dress. It may be prohibitory improper, like accumulating wealth for pride. It may be prohibited, like silk dress for men.

The injunction about earning would depend on the injunction about source and purpose. Given the above, where source and purpose both are mandatory, earning would be mandatory, and so on.

The above rules also help in identifying the reply to the second question. If the purpose is not necessary, begging would be prohibited. (23:603–22)

Chapter on Education and Learning

Type of knowledge that is mandatory

Question:
In the hadith "Obtaining knowledge is mandatory for every Muslim man and woman," does the word "knowledge" means every type of knowledge or any specific type of knowledge? If it means any specific type of knowledge, what would be that type? Reply and be rewarded.

Summarized Answer:
The meaning of the hadith, "Obtaining knowledge is mandatory for every Muslim man and woman," is to make the acquisition of knowledge mandatory. This cannot be true except for the type of knowledge acquisition of which is absolutely mandatory, and absolute mandatory type of knowledge can be only that is actively needed by human as per the religion.

The first subject of this type of knowledge is the science of Faith that makes human a Sunni Muslim and lack of which results in becoming an infidel or deviant person. The first mandatory for human is the learning of this knowledge and the need of this is equal for everyone.

The second one is the science of *Masayl* (Issues related to Sharia), like prayer that is learning of mandatory acts, conditions and vitiating acts to offer prayers validly. By arrival of Ramadan, one needs to learn issues related

to fasting. If a person has wealth upto minimum scale, he or she would need to learn the issues related to *zakat*. If he has financial capacity, he would need to learn the issues related to *Hajj* to offer *Hajj*. If a person wants to marry, he or she would need to learn the issues related to marriage. If a person carries out a business, he or she needs to learn issues related to sale and purchase. If a person is a cultivator, he or she needs to learn the issues related to agriculture. If a person is service provider or service receiver, he or she would need to learn the issues related to *ijarah*, and so on. Every Muslim is required to learn the knowledge according to his or her present situation. Among these issues, the 'lawful' and the 'prohibited' need to be known by everyone.

After these, there are matters related to Knowledge about Heart (*ilm-i qalb*), that is mandatory acts of heart, like softness, sincerity, trust on Allah etcetera and respective methods of learning. These include prohibited acts of heart, like pride, ego, jealousy etcetera and respective cures. Knowledge of these is also mandatory for Muslims. Just like a person who skips mandatory prayer has committed major sin by that omission and is guilty of misconduct, so is a person who offers prayer with intention to show it off is also guilty in the same way.

These are the type of knowledge acquisition of which is stated as mandatory in the hadith. And Allah the Exalted knows better. (23:624–31)

Chapter on Events and Meetings

Organizing a *mehfil* on a fixed day

Summarized Question: from Molvi Muhammad Wahid, 27 Jamadi al-Awla 1335H.
Is arranging a *mehfil* of *mawlid* and urs of *awliya* on fixed days permissible or not?

Summarized Answer:
The arrival of the Prophet Muhammad, Allah's peace and blessings upon him, in this world was in the Islamic month of Rabi al-Awwal. The Prophet used to fast on Mondays as gratitude and informed that the reasons for the fasting were his birthday and the day on which the Quran revealed both of which had occurred on Mondays.

These fixations are because of the connection (with that day), therefore, criticizing these is ignorance. About fixation without connection, the Prophet stated, "Fasting of Sundays is neither beneficial nor dangerous for you," then how could the fixations with connections be objected?

Yes, fixation with the meaning that an act is disallowed on a particular day or is impermissible on a particular day is certainly baseless. However, not even an ignorant person has such a claim, but the Wahhabis do not have knowledge. Similar is the case for 11th of Rabi al-Thani, 12th of Rabi al-

Awwal and death anniversaries of *awlya*. And Allah the Exalted knows better. (23:753–55)

Chapter on Entertainment

The Issues about Qawwali*:* On adding music in singing Sufi lyrics

Masayil-i Samaa (1320)

Summarized Question: from Molvi Abd al-Latif Hazari (Bengal), 3 Ramadan 1320H.
Are the gatherings (*majalis*) for listening Sufi lyrics (*Samaa*) organized by Sufis of this era, which include singing, dance and playing musical instruments, permissible or not?

Summarized Answer:
A gathering would be permissible if it is free of the things and acts prohibited by the Sharia and does not involve contents that could be beneficial or harmful depending on the purpose and delicacy of sensitive arguments. A gathering for listenting to Sufi lyrics is permissible only to limited eligible persons and ineligible persons are not allowed to attend it. It is prohibited for all if musical instruments are played while singing such lyrics. Sayyidi Maulana Muhammad Ibn Mubarak Ibn Muhammad Alwi Kirmani, a spiritual disciple of Hadrat Farid al-Din Ganj Shakar and spiritual

deputy of Sultan al-Awliya Hadrat Nizam al-Din, Allah be pleased with them, states in his book *Siyar al-Awliya*:

> Hadrat Sultan al-Mashaykh has said that *Samaa* would be lawful if certain conditions are met. (1) The speaker is a man and not a minor child or woman. (2) The listener listens to what comprises of the remembrance of Allah the Exalted. (3) The lyrics being listened are free from vulgarity, fun and useless contents. (4) The instruments, like harp (*sarangi*), rebec (*rubab*) etcetera are not (played) as its part during the gathering. If all these conditions are met, *Samaa* would be lawful and permissible.
>
> And Allah the Exalted knows better. (24:145–65)

Chapter on Inviting towards the Good and advising againt the Bad

Reward of inviting towards good

Question: from Molvi Hidayat-Rasul (Mumbai), 21 Jamadi al-Akhira.
Is inviting towards good and advising against bad through speech and listening to that speech with silence and attention a type of worship or not? Is it insulting the religion to create interference, disturbance and noise including calling names while the speech is being delivered, or not?

Summarized Answer:
The speech by an *aalim* (pl. ulema) for inviting towards good and advising against bad is certainly a great service to Islam. Listening to a religious speech with respect, silence and attention is also a worship and mandatory duty. Creating interference, disturbance and noise including calling names while the speech is being delivered is certainly in insult to the religion and a habit of infidels.

A religious speech is a mandatory religious duty, our religious books specify the listening to every sermon (*khutba*), even sermon of marriage and sermon of the completion of the Quranic recitation, is mandatory and creating noise during the sermons is prohibited, although the sermon of

marriage is a sunnah and the sermon of the completion is recommended (*mustahab*). (24:168–72)

Chapter on Deseases and Medical Treatment

The Reflecting Right: On injunction about visiting an ailing person

Al-Haq al-Mujtala fi Hukm al-Mubtala (1324)

Question: from Hafiz Abd al-Aziz (Gonda), Dhulhijjah 1324H.
Zayd suffers from high blood pressure and part of his body is paralyzed. It is also feared that he may further be paralyzed in future. Physicians instruct that eating, drinking and meeting with such a person is be avoided, and they also give reference of the Sharia for this instruction. What is the injunction of the Sharia in this matter, and should such a person be avoided?

Summarized Answer:
The hadiths on this subject apparently present different instructions. We would first cite the hadiths and then present an interpretation according to the Sharia. The author then cites 10 hadiths, as the first type, that show avoiding a person suffering from leprosy (*jazam*) and 22 hadiths and statements from the Companions, as the second type, to show non-avoidance.

The hadiths of the second type are clear in that deseases are not transmitted to another person through air. These are not contagious. Meeting with an ailing person does not make another person sick. If a desease was contagious, how did the first person suffering from the desease catch it? The Prophet, Allah's peace and blessings upon him, unconditionally stated as such to remove the apprehension borrowed from the dark ages (*jahiliyyah*). The acts of the Prophet and the companions whereby they ate with individuals suffering from leprosy, drank their leftover water, holding and taking their hands towards dishes, picked up piece of meal exactly from the place in dishes where ailing one had picked, drank water from the same place of container clearly show that transmission of desease from a person to another is a wrong thought, otherwise the Sharia had not allowed a person to put himself or herself into a danger.

As for the first type of hadiths, these do not have such authentic chains of transmission as those of the second type. No hadith explicitly supports transmission of desease from a person to another. (24:215–83)

Making Good Deed Easy: On staying in area where plague has spread

Tisar al-Maun lil Sakan fi al-Taun (1325)

Summarized Question: from Molvi Muhammad Nafis (Lucknow), 6 Safar 1325H.
What is injunction for running away from area where pleague has spread?

Summarized Answer:
Running away from plague is a major sin. The Prophet has said, "One who runs away from plague is like one who runs away from jihad againt infidels." In the related hadiths, running away from plague has been condemned and there is no mention of city, locality or house, therefore, it applies to every movement from city, locality or house to avoid plague.

Just like running away from plague is prohibited, entering a place where plague has spread is also impermissible and an act of sin. Hadiths have prohibited both of these. The first one involves running away from divine decree and predestination whereas the second one involves fighting with a danger. (24:285–310)

Chapter on Love, Affection and Enemity

Affection for non-Muslims

Question: from (Bhopal), 1304H.
In the city of Bhopal, certain French non-Muslims are stationed. Some Muslims freely eat and drink with them. What is the injunction of the Sharia in this regard? If these Muslims do not accept the advice of avoiding such an act, should other Muslims abstain from eating with these Muslims, or not? Reply and be rewarded.

Summarized Answer:
Meeting non-Muslims and eating with them in the manner as stated in the question must be avoided especially where faith of a Muslim is weak. There are numerous citations from the Sharia this regard; some of these are quoted here. Allah the Exalted has ordered, "If the Devil makes you forget, you must not sit with wrongdoers (*ẓalimin*) upon becoming aware." There is no bigger wrongdoer than a non-Muslim. The Prophet has informed, "One (Muslim) who mixes with a polytheist and remains with him is like that polytheist." The Prophet has further said, "I am unhappy with a Muslim who is with the polytheist; a Muslim and the fire (of an infidel) must not be

together." The Prophet has ordered, "You must not meet except the people of faith, and your meals must not be eaten except by the pious." The author presents a total of 15 hadiths in support of his fatwa. (24:311–18)

Chapter on Opposition Among Muslims

Limit of the right of self defence

Question: from Khuda Bakhsh (Bareilly), 28 Rajab 1339H.
A man has been causing pain to Zayd and is always ready to cause harm, like *tawiz* (amulets), majic etcetera. Zayd has been quiet so far and has endured all the problems (caused by that man). Zayd has learned from few persons that that person now has the intention to kill Zayd.

The background is that he wants to get the house of Zayd and he wishes so. The house is owned by Zayd, therefore, the demand of the man is misplaced. Now, Zayd cannot tolerate it more and he wants to cause problem for that person in every manner. What is the extent to which he is allowed to so?

Answer:
Zayd cannot cause harm merely on knowing that person's intention to cause harm to Zayd. Zayd may make strategy for his defence. Until Zayd has evidence that Zayd would not be able to defend himself without harming that person, Zayd may only take step to defend himself. Zayd may take revenge to the extent of harm caused to Zayd, and if Zayd exceeds beyond

that, it would be a wrongdoing (*zulm*) on part of Zayd and it would be better for Zayd to tolerate. And Allah the Exalted knows better. (24:349–50)

Chapter on Lies, Backbiting and Breaking Promises

Breaking a promise

Question: from Sher Muhammad Khan (Bulandshahr), 5 Shaban 1329H. What is the ruling where a firm promise for an act, according to oath in accordance with the Sharia, is broken by a person?

Answer:
If that act was obligatory and mandatory, breaking that promise would be prohibited and impermissible. If that act was impermissible and prohibited, like a promise on oath to drink wine, breaking that promise would be mandatory and obligatory. If that act is allowed and there is an excuse, it would be permissible to break the promise, and breaking it without an excuse would be disliked. Where the person making the promise had the intention of not keeping the promise, that promise would be prohibited. The Prophet, Allah's peace and blessings upon him, has ordered:

> It would not amount to breaking a promise where the person making the promise has the intention to keep it; however, it would amount to breaking a promise where the person making the promise does not have the intention of not keeping it. This hadith has been reported by Abu Yala

in *Musnad* from Hadrat Zayd Ibn Arqam, Allah be pleased with him, with a good (*hasan*) chain of transmission.

And Allah the Exalted knows better. (24:355–6)

Chapter on Claim, Court and Testimony

Conduct of a qadi and honorary magistrate

Question: from Muhammad Ishaq and Mahmod Hasan (Saharanpur), 24 Ramadan 1339H.
A qadi of the city does not act on mandatory non-cooperation (with British government, under Non-Cooperation Movement). He is also honorary magistrate and decides judicial cases according to English Law in contravention of the Sharia. He attended the ceremonies and gatherings of government held to celeberate defeat of (Ottoman) Muslims in the war (that is World War I). He is bachelor for last 12 years and does not marry despite the financial capacity. He also pays *riba*. Is it permissible to offer congregational prayer being led by him? Should he be accepted as qadi of the city? What is the injunction for him? Reply and be rewarded.

Summarized Answer:
Deciding judicial cases in contravention of the Sharia is prohibited. The Quran has used three words for them: people of bad conduct, wrongdoers and infidels. It would be infidelity if he is happy on defeat of Muslims by heart, otherwise it would be misconduct. Paying *riba* where there is Sharia-

recongnized need, compulsion and no other way (to meet a necessity) would not be harmful, otherwise it would also be misconduct.

Such a person is ineligible to be appointed as qadi or prayer leader, although 'qadi of city' in these areas is one who administers Muslim marriage contract, because it would be a matter of giving respect to him. He cannot be made accountable for being bachelor for last 12 years.

Non-cooperation is unconditionally mandatory with every single non-Muslim, and this is mandatory since beginning (of Islam), rather than this era only, with Jews, Christians, Zoroastrians and, more than them, with Hindus. However, mere worldly dealings with any infidel are not disallowed. (24:361–2)

Chapter on Good Behavior and Public Duties

The Rights:
On rights of parents and avoiding disobedience

Al-Huquq li Tarah al-Uquq (1307)

Summarized Question: 12 Shaban 1311H.
A man started disobedience of his father and took over his father's entire property without leaving anything for the father's livelihood. He has intention to insult his father. What is ruling about that son? Does a father or mother have more rights over his son?

Summarized Answer:
The said son is guilty of misconduct (*fasiq*), is impious (*fajir*) and has committed a major sin. He deserves severe punishment and anger of Allah. Father's disobedience is disobedience of Allah, and father's disagreement is disagreement of Allah. One who seeks pleasure of his parents proceeds towards the Heaven, and one who seeks displeasure of his parents proceeds towards the Hell. Until he pleases his father, his mandatory, supererogatory and any other good deeds would not be acceptable. Father has precedence

in respect and honor and mother is to be provided services first. (24:383–91)

A Torch for Guidance: On rights of children over parents

Mashalat al-Irshad fi Huquq al-Awlad (1310)

Question: from Mirza Hamid Hasan (Etah), 7 Jamadi al-Awla 1310H. What are the rights of a son over his father? If a father does not discharge such rights, what would be the ruling about father? Reply and be rewarded.

Summarized Answer:
The author lists 60 rights of children over his or her father. He further adds five specific rights of a son and 15 specific rights of a daugther. The author then states that he could recall these 80 rights from hadiths. Most of these are recommended (*mustahab*) acts, and skipping these would not hold the father accountable. For some of these, he would be accountable on the Day of Judgement. However, a father can neither be held accountable for any right due to his son nor is it permissible for a son to have fight or dispute with his father, except that there are seven rights that ruler may enforce, complaint can be lodged or objection can be raised. (24:451–7)

An Amazing Help: On discharging the human rights

Aajab al-Imdad fi Mukafarat-i Huquq al-Ibad (1310)

Question:
Can a human right be waived without waiver by the person who holds the right? How many human rights are there? Reply and be rewarded.

Summarized Answer:
An individual's right is every financial claim which is proved a receivebale according to the Sharia and every loss or damage, without permission of the Sharia, has been caused by his words, act or omission to another person's belief, honor, life, body, asset or merely feelings. It is very difficult to count human rights. Until waiver by the person who holds the right such rights cannot be waived. (24:459–76)

Chapter on Mourning and Sorrow

Being sad during the first 10 days of Moharam

Question: from Sayyid Maqbol Isa (Bareilly), Safar 1335H.
Is it permissible for Ahl-i Sunnah wa al-Jamah to have grief (*ranj*) or sorrow during the first 10 days of the month of Moharam? Reply and be rewarded.

Summarized Answer:
The orbit of the faith of Ahl-i Sunnah wa al-Jamah is the love of the Prophet Muhammad, Allah's peace and blessings upon him. One cannot be a Muslim until he or she loves the Prophet more than his or her mother, father, children and the entire world. A lover loves everything belonging to the beloved. Everyone belonging to the Prophet, whether he or she is among the Companions, his wives and the Ahl-i Bayt (People of the House), is noble. Who can be more beloved than the one (Imam Husayn) who is so dear to the Prophet.

There can be no Sunni who does not have sorrow of the event of Karbala or whose heart is not sad or eye does not cry for it. Yes, we have been ordered to show patience. Crying and worrying are disallowed by the Sharia. One who is not sad must not act as being sad and intentionally becoming or increasing sorrow is against the requirement. One who is not sad should be sad for not being sad because his or her love (with the

Prophet) is incomplete. One whose love (with the Prophet) is incomplete has incomplete faith. (24:486–8)

Chapter on *Taziyah* and Related Practices

A Huge Benefit: On *taziyahs* in India and speeches on the martyrdom

Aali al-Ifada fi Taziyat al-Hind wa Bayan-i Shahada (1321)

Summarized Question:
What is the injunction about practices related to *taziyahs*? Is it permissible to read *shahadatnamah* (book narrating the event of Karbala)?

Summarized Answer:
The reality of *taziyah* was only that a correctly drawn image of the shrine of Hadrat Imam Husayn, Allah be please with him, was kept in houses as relics. It did not involve anything against the Sharia. However, ignorant masses have added useless and baseless things in it. *Taziyah* now is not longer an image of the shrine. It is now moved across streets for publicizing sorrow. Some people mourn around *taziyah* and shout. Some bow to salute *taziyah* and so on. Accordingly, such practices related to *taziyah* are illegal innovations (*bidah*) and prohibited. Reading about the events related to the

martyrdom (of Imam Husayn), where it is free from incorrect citations and disallowed intention, has blessings. (24:511–27)

Chapter on Adopting Resemblance of Others (*Tashabba bi al-Ghayr*)

Principles about resemblance of others, like wearing dhoti

Summarized Question: from Muhammad Wasi Ahmad Surati (Pilibhit), 24 Safar 1313H.
Is dhoti (ankle-length breechcloth) a costume of India or that specifically of Hindus? A scholar says that dhoti is costume of Hindus and for the instruction (given in a hadith), "one who adopts resemblance of a group would be counted in that group," any Muslim who wears a dhoti is like a Hindu and his worship and other good deeds would not be acceptable and Muslims should avoid socializing with him. What is the injunction of the Sharia about it? Reply and be rewarded.

Summarized Answer:
In my view, resemblance can be of two types. First, a person adopts style and appearance of a group specifically with the intention to appear like and adopt resemblance with that group. This is the resemblance in reality, for the reason that intention and effort is involved in it. Second, a person does not have intention to adopt resemblance but that style is a specific symbol of that group resultantly there is automatic resemblance.

The intention in the first type has three forms. (1) The person adopts resemblance with a group in their love and accepting their wish. Where this resemblance is with a deviant person, it would be an illegal innovation (*bidah*), and where it is with a non-Muslim, it would be infidelity (*kufr*). The hadith quoted in the question relates to this form.

(2) The person adopts it for an acceptable purpose. In this situation, a comparison would be made between the purpose and the evil of that style. Where the need of that purpose is heavier, it would not be disallowed to adopt it during the time of and to the extent of the need, and cannot be resemblance.

(3) The person neither considers that group a good one nor does he have a Sharia-recognized need for the resemblance rather he needs it for a worldly benefit or without any purpose. In that case, there is no doubt that the adoption of resemblance would be prohibited and disallowed.

In the second type, the injunction is for prohibition unless there is no other option, like coercion etcetera, like English cap, jacket and pant. The reason is that these are not part of the religion of non-Muslims but these are their symbols so avoiding these would be obligatory and adopting these would be a sin. Therefore, ulema have disallowed cloths and socks of styles used by people guilty of misconduct.

The author then proceeds to conclude that wearing dhoti does not relate to situations described above. However, if the Muslims at a place consider dhoti a costume of non-Muslims, it would be insisted to avoid it. (24:529–35)

Chapter on Smoking and Betel Leaves (*Paan*)

Hookah (narghiles) smoking and consuming betel leaves

Question: from Muhammad Husayn (Topkhana), 16 Jamadi al-Awla 1336H.

A person has arrived in our area from Panipat District Karnal. He says that hookah smoking and consuming betel leaves are prohibited, I would not eat meals offered by a person who smokes hookah or eats betel leaves. Those who leaves these are allowed to attend congregational prayer and others are not allowed and asked to offer prayer separately.

In noon prayer, I had performed ablution (*wudu*) and tried to become part of the congregational prayer but I was prohibited and asked to offer the prayer separately. Therefore, I offered the prayer separately. I was also denied to join congregational prayer of afternoon.

Summarized Answer:

Consuming betel leaves is certainly lawful. It is reported to have been consumed by Mahbob-i Ilahi Hadrat Nizam al-Din, Allah be pleased with him, and many *awliya* from the era before him. Hadrat Amir Khusro has praised it. The permissibility of using quicklime (*choona*) in it has been stated

in the book *Nisab al-Ahtisab*. The permissibility of hookah smoking is stated in *Ghamz al-Uyun*, *Sharh Hadiyyah Ibn al-Umad*, *Kitab al-Salah Bayn al-Ikhwan*, *Dur*, *Tahtawi*, *Rad* and other authentic legal texts.

That person's attempt to declare a lawful act as a prohibited act is dangerous, and his insistence that a person who smokes hookah or eats betel leaves is denied joining a congregational prayer is a wrong and, in fact, severe digression from the right path. By doing so, he is blaming on the Sharia, and where a person who blames Allah, that person would deserve severe punishment. He needs to repent and avoid those acts else he deserves to be denied enterance into masjid. (24:555–6)

Chapter on Pictures

The Givings of the Powerful: On injunction about pictures

Al-Ataya al-Qadir fi Hukm al-Taswir (1331)

Question: from Molvi Abd al-Rahim (Ahmadabad), 29 Safar 1331H. Nowadays, a photograph is being sold in Ahmadabad city for two *fulus*. A sample for your view is being sent. You may see it. This is a photograph of Hadrat Pir Ibrahim Baghdadi who is the *Sajjada-nashin* (seat bearer) of the Khanqah of the Pir of pirs Hadrat Ghauth al-Azam (Shaykh Abd al-Qadir Jilani), Allah be pleased with him. The photograph is kept by people of Ahmadabad as a relic. Is it prohibited to keep this photograph in homes, or not? Would the angles of blessing enter a house in which this photograph is kept, or not? Would the presence of the photograph bring blessings (*barkah*), or not? Is it permissible in the Sharia or *Tariqah* to keep the photograph of the pir by a disciple in front of the disciple for imaging *barzakh-i shaykh* (presence in the court of pir), or not? Reply with correcting arguments and be rewarded by Allah the Exalted.

Summarized Answer:
Idolatry (worship of idols) started in the world with the chronology that pictures of pious individuals were made and kept in houses and masjids and considering such an act as increasing the engagement in the worship. Over the period, those pictures became the subject of the worship (*mabod*). Angles of blessing do not enter a house in which a photograph is kept with respect. Keeping such a photograph as a relic, considering it a source of blessing and admitting it for *barzakh* are all major sins. Ignorant masses think that Shaykh Abd al-Qadir Jilani would be happy with their such acts in respect of the photograph of his descendant, whereas the first one to be angry with their such acts would be Shaykh Abd al-Qadir Jilani. (24:571–642)

Chapter on Keeping Pets and Animals

Keeping birds for fun and fights

Question: from Sayyid Ibrahim (Bilgram), 8 Dhiqaddah 1311H.
Is keeping birds, like parrot, finch (*lal*), myna, stonechat (*piddi*) and domestic cock, for entertainment and arranging bird fights permissible, or not? Reply and be rewarded.

Summarized Answer:
Arranging the fights (of birds) is unconditionally impermissible and is a sin because it is harming an innocent without any reason. The Prophet has disallowed to instigate or motivate animals for fight. Keeping domestic animals, like cock, chicken and pigeon would certainly be permissible if he/she protects them from harm and takes care of their water and food sufficiently. There is motivation for keeping a white cock in a hadith. Imam Bayhaqi has reported from Hadrat Abd Allah Ibn Umar that the Prophet said, "Cock makes a call for prayer; one who keeps a white cock, he would be safe from three problems: attack of the devil, magician and astrologer (*kahin*)."

As for wild animals, like parrot, myna, finch and nightangles, *Hindiyyah* with reference to *Quniyyah* mentions its prohibition even if he arranges water and food for these. However, as per authentically transmitted hadith and

statements of imams, keeping these is permissible if sufficient care is taken. (24:643–5)

Chapter on Names of Individuals

The Divine Light and the Illumination: On injunctions about certain names

Al-Nur wa al-Ziya fi Ahkam-i Baad al-Isma (1320)

Question: from Shaykh Shokat Ali Faroqi, 6 Jamadi al-Awla 1320H.
Some people keep names, like Ali Jan, Nabi Jan, Muhammad Jan, Muhammad Nabi, Ahmad Nabi, Nabi Ahmad, Muhammad Yasin, Muhammad Taha, Ghafor al-Din, Ghulam Ali, Ghulam Husayn, Ghulam Ghauth, Ghulam Jilani, Hidayat Ali. Is it permissible to keep any of these names, or not? Reply and be rewarded.

Summarized Answer:
Among the stated names, Muhammad Nabi, Ahmad Nabi and Nabi Ahmad are true for the Prophet only and suit him. Therefore, these names are prohibited for others. Similarly, having name Nabi Jan is unreasonable. It is disallowed to keep names Yasin and Taha because these are among the names of Allah and the Prophet of which meanings are not known and, therefore, there is possibility of meaning that is not valid for other than Allah and the Prophet; therefore, these must be avoided. Name Ghafor al-

Din is very bad as the meaning of Ghafor is 'remover' so the meaning of Gafor al-Din would be 'remove of Islam.'

It is permissible to keep names Ali Jan, Muhammad Jan, Ghulam Ali, Ghulam Husayn, Ghulam Ghauth, Ghulam Jilani and Hidayat Ali. (24:677–707)

Chapter on Politics

Competency of a candidate for an elected position

Question: from Muhammad Baqir Khan (Rai Bareilly)
In a town which is part of a municipality, a person namely Ahmad who knows legal writing and English language, belongs to an upright family, is an expert of administrative matters, has served on respectable positions is among the Muslim members of the municipality. He has served the community with honesty and intergrity as municipality member. His term as member is about to complete, therefore, he is again a candidate for the position of member. In his competition, there is a common man, namely Amar, who merely knows Urdu language and neither has any administrative capacity nor related experience. To win, Amar has put forward a proposal that if he is elected as a member, he would pay 150 dirhams in the charity, that is in the one-*ana* fund of that town. This would motivate the secretary and members to make the one-*ana* fund successful. Should Muslims help Ahmad or Amar? Reply and be rewarded.

Answer:
Being a member of municipality is not a matter related to the Sharia, but it is true that in the situation stated in the question, putting effort for Amar in competition with Ahmad is away from a sane and valid act. If Ahmad,

according to the person sending this question, is a knowledgeable and trustworthy for benefits of Muslims, then it would be a clear ignorance to give preference to another person over him merely in greed of 150 dirhams. The Prophet, Allah's peace and blessings upon him has informed in a hadith, "One who makes a person officer over 10 men and there is another person among them who is more beloved to Allah (than the selected one), the person (making selection) has certainly breached the trust of Allah, the Prophet and the Muslims, all." (24:715–16)

BOOK OF BEVERAGES (*ASHRIBAH*)

BOOK OF BEVERAGES

Chapter on Types of Intoxicating Beverages 657
Medicinal usage of opium (*afyun*) 657
Chapter on Beverages That are Probably not Prohibited 659
A Coral Box: On injunction about smoking hookah 659
Chapter on Scattered Issues 661
The Decisive Insight: On use of palm wine in flour for making yeast 661

Chapter on Types of Intoxicating Beverages

Medicinal usage of opium (*afyun*)

Question:
Is medicinal usage of a minor quantity of opium permissible, or not? Reply and be rewarded.

Summarized Answer:
Upon a medical need, a little quantity of opium would be permissible if it does not result in intoxication (*nasha*), pleasure (*suror*) or change in intellect (*aql*) or senses (*hawas*) at all. It would be unconditionally impermissible to consume opium as pleasure for relaxation, like generally people using it make it addiction, even if it does not result in intoxication and even if it is so little that it cannot cause intoxication. It is stated in *Rad*, "High consumption of cannabis (*bhang*) or opium that causes intoxication is unconditionally prohibited; using these in minor quantity for fun (*lahu*) is prohibited but not prohibited for a medical purpose."

Allah knows the intenion of the person consuming it. Some use medical purpose as an excuse. However, a fatwa would not be beneficial for them.

"And Allah better knows the trouble maker and the one who corrects." And Allah the Exalted knows better. (25:77–8)

Chapter on Beverages That are Probably not Prohibited

A Coral Box:
On injunction about smoking hookah

Huqqat al-Marjan li Maham Hukm al-Dukhan (1307)

Question: from (Bengal)
Is smoking hookah and consuming tobacco prohibited or improper?

Summarized Answer:
The correct view is that smoking hookah as prevalent across the world among masses and the elite, and even among the ulema of the Two Holy Sanctuaries (*Harmayn*) is allowed and permissible according to the Sharia and there is no evidence for its impermissibility in the Sharia.

The view that it is disallowed and impermissible is based on one of the following: (1) lack of knowledge about working of it, (2) watching people guilty of misconduct gathering for smoking it, (3) its illegality in some countries, (4) founded on falsehood or fabricated rules for it, or (5) lack of understanding of the principles of Sharia. Many of our jurists have stated the smoking hookah as allowed.

In sum, there is no way in the matter except that it is allowed especially it is so prevalent and declaring it as disallowed would amount to declaring such large number of Muslims as guilty of misconduct (*fasiq*), which is not liked by the Sharia. And Allah the Exalted knows better. (25:79–98)

Chapter on Scattered Issues

The Decisive Insight: On use of palm wine in flour for making yeast

Al-Fiqh al-Tasjili fi Ajin al-Nar Jili (1318)

Question: from Mirza Abd al-Qadir Bayg (Rangon), 28 Rabi al-Akhir 1318H.
A small quantity of flour is converted in yeast by mixing palm wine with it, and then the flour is mixed into 15 to 20 *ser* of flour to make yeast. What is the injunction for bread prepared with that flour? What would be the injunction about the bread if it ceases to have intoxicating (*sukr*) effect? Reply and be rewarded.

Summarized Answer:
According to the correct view, palm wine (toddy) etcetera, every drop of all intoxicating liquids is, like wine (*khumr*), prohibited and disallowed. It is not only prohibited but also unconditionally severely dirty. This is the authentic view of our school and fatwa is to be issued according to this view.

Accordingly, where elements of intoxicating palm wine are included in a bread, the bread would certainly be prohibited and impure, selling it would be prohibited and disallowed and the price of it would also be prohibited.

If it is mixed into a small quantity of flour to making yeast and then mixing it in large quantity of flour would not change the injunction. If water is added to flour and palm wine is mixed into it before kneading, it is apparent that the impure yeast would make the entire water impure resulting in the entire flour getting dirty. Where the yeast is added after kneading the flour, even then that method would not make difference if the yeast is placed in center of or on a side of the flour so that the entire flour becomes yeast through its effect. In fact, they certainly mix the yeast well in the flour so that all of its elements mix with the flour. In this way, the injunction of prohibition would still prevail because mixing a prohibited thing into a lawful thing in this manner makes the entire mixture prohibited, whereas this mixture was prohibited and also impure. Lack of intoxication in its sediments (*gad*) would also not change the injunction where the reason for absence of intoxication is high density. Thin particals that result in fading and evaporation of intoxication are not such that impact of these is not apparent. We have already discussed that every drop and partical of any intoxicating liquid is prohibited like wine and dirty like urine, and the sediments cannot be free from these. Even if it is assumed that it is free from these, the mix would still be impure because it is the residue of that dirt.

However, Dawod Antaki has stated in *Tazkira* that *sendhi* that is a liquid which, like palm wine, is obtained from coconut tree remains intoxicating only for one or two days and converts itself into very harsh and strong vinegar. Palm wine (toddy) and *sendhi* are similar because palm wine is also a kind of *nar-jil*. If is proved that palm wine also converts itself into vinegar in a fixed period and is also the reason for lacking of intoxication in the sediment, then there would be no doubt about its purity and permissibility, and a bread made of yeast containing such sediment would be permissible and pure and its sale would be allowed. Likewise, if is proved that after a fixed time its elements become vinegar and even the particles mixed in the flour and backed on fire, then injunction would be purity of the bread and legality and permissibility of its sale after that fixed time, even if intoxicating elements are mixed into it because upon absence of intoxication in the elements and it becoming vinegar would result in the mix becoming pure and lawful and the prohibition and impurity of the bread based on it would cease to exist. However, where there is no acceptable proof of it, the injunction of impurity and prohibition would prevail. And Allah the Exalted knows better. (25:107–203)

BOOK OF DUES (*MUDAYANAT*)

BOOK OF DUES

Chapter on Payable to Deseased Infidel 665
Repayment of a loan obtained from a non-Muslim who has died 665

Chapter on Payable to Deseased Infidel

Repayment of a loan obtained from a non-Muslim who has died

Question: from Mulla Yaqub Ali Khan (Ujayn), 21 Dhiqaddah 1311H.
A Muslim had borrowed money from a Hindu. The lender has died and has no heirs. How should the loan be repaid? Reply and be rewarded.

Summarized Answer:
Wealth of an individual who has died and neither had any heirs nor did he make bequest of his wealth to anyone else is deposited into Islamic treasury (*bayt al-mal*). The people entitled to such deposited wealth of the treasury are poor, needy and those without resources such that it is spent on their meals, water supply, medical treatment and funerals, according to the majority view of our school. This principle also applies to wealth left by a deceased non-Muslim. It is stated in *Hindiyyah*, "If any individual among *dhimmis* dies and has no heirs, his or her wealth would be deposited in the treasury (*bayt al-mal*); this is stated in this manner in *Ikhtiyar sharh Mukhtar*."

Therefore, in the situation stated in the question, the wealth is to be given to poor without the intention of divine reward for that non-Muslim because non-Muslims are not entitled to divine reward and because he has

died and death ceases the ownership so the wealth is not owned by him or her anymore. Therefore, the wealth would be right of the treasury resulting in entitlement of poor to have it. And Allah the Exalted knows better. (25:53–4)

BOOK OF PLEDGE (*RAHN*)

BOOK OF PLEDGE

Chapter on Meaning of Pledge and Basic Rules 669
Taking benefit from a pledged asset 669
Chapter on What can be Pledged and What Cannot be Pledged 671
Pledge of a currency note 671
Pledge of farmland 672
Section on Multiple Pledges and Parties 672
Pledge of a jointly-owned asset 672
Chapter on Undertaking Transactions in a Pledged Property 673
Renting out a pledged property 673

Chapter on Meaning of Pledge and Basic Rules

Taking benefit from a pledged asset

Question: from Abd al-Samad (Kohna), 8 Rabi al-Akhir 1318H.
Is it permissible for Zayd (pledgee) to take benefit from the pledged asset with the permission of the pledger (*rahin*), or not?

Answer:
Taking benefit from a pledged asset is prohibited. The Prophet has instructed, "Evey loan that brings a gain is *riba*."

The meaning of taking benefit with the permission of the pledger would mean allowing to take benefit without pressure of the loan and accepting the condition of the pledger's permission. This would mean that when the pledger allows, the pledgee would take benefit and when the pledger disallows, the pledgee would stop taking the benefit. For example, when the pledger permits with his free will that the pledgee may reside in the pledged house, the pledgee would reside, and when the pledger disapproves it, the pledger would immediately leave the house, without any excuse. However, this is not the practice here. Rather the pledger is under the pressure and the permission by the pledger is because of the pressure.

The purpose of registering the pledge is to ensure that the benefit can be taken by force. If the pledger demands exit, the pledgee would not stop taking the benefit and would reply that he or she would stop on repayment of the loan. This situation does not relate to permission; therefore, it would be prohibited and *riba* according to the consensus of our jurists. And Allah the Exalted knows better. (25:239–40)

Chapter on What can be Pledged and What Cannot be Pledged

Pledge of a currency note

Question: from Haji Isa Khan Muhammad (Gujrat), 8 Jamadi al-Awla 1330. Where a currency note is bought on credit (for dirhams), would it be permissible to pledge jewelry as security (for repayment), or not?

Summarized Answer:
It is permissible. If the jewelry is wasted in possession of the pledgee, the weight would be relied upon where the pledge is against the specie, for example the note was bought for (silver) dirhams and silver jewelry was pledged or the note was bought for (gold) dinars and gold jewelry was pledged. However, the price of the jewelry would be relied upon where the pledge is against a thing other than the specie but the note was bought for dirhams and gold jewelry was pledged or the note was bought for dinars and silver jewelry is pledged. For example, the note was bought for 100 dirhams and silver jewelry equal in weight to 100 dirhams having price of 200 dirhams was pledged, then these would be equal since the weight was equal. In case, jewelry weighing equal to 50 dirhams having price of 100 dirhams having price of 100 dirhams was pledged and wasted, then only 50

dirhams would be adjusted against the loan because its price was 100 dirhams and was pledged and wasted therefore these were equal and the loan is discharged because the price is to be relied upon here. (25:256)

Pledge of farmland

Question: from Jan Muhammad (Hoda), 28 Shawal 1337H.
Is it permissible to pledge farmland, or not?

Answer:
Farmland that is owned by another landlord cannot be pledged without the permission of the owner. It would be permissible if the owner permits or pledges it himself. However, upon the pledge, farming by the owner in it would become impermissible. The hadith states, "A loan that brings a gain is *riba*." And Allah the Exalted knows better. (25:295)

Section on Multiple Pledges and Parties

Pledge of a jointly-owned asset

Question: from Molvi Ahmad Husayn (Rampur), 18 Jamadi al-Awla 1321.
Certain individuals jointly pledged an asset that was jointly owned by them, with certain lenders. They received the amount so secured from and handed over the pledged asset to the pledgees and stated in the pledge deed that the pledgers have weaved and gifted the profit from the pledged assets for the pledgees. Most of the pledgers have died now and some are alive. After the death of the deceased pledgers, the pledgees have obtained profit from the pledged assets in excess of the secured loan. Are the pledgees entitled to the profit, or not? Despite the fact that the pledgees have obtained profit from the pledged asset equal to or more than the amount of the load secured, would the peldgees be entitled to receive the amount of the loan secured or the heirs would be entitled to adjust the amount of profit taken by the pledgees against the amount of loan and get the pledge of the asset vacated without any further payment? What is the impact of stated gift and weaver of the profit from the pledged asset in the pledge deed in general and especially after the death of the pledgers? Reply and be rewarded.

Summarized Answer:
In the situation stated in the question, the profit from the pledged asset is prohibited and *riba* for the pledgees. The pledgers' gift of the profit to the pledgees is also meaningless because the profit gifted did not exist at that time and gift of a non-existing thing is void and without any effect. And Allah the Exalted knows better. (25:240–3)

Chapter on Undertaking Transactions in a Pledged Property

Renting out a pledged property

Question: 22 Safar 1306H.
Is it permissible for the owner or any other person to take a pledged house on rent from the pledgee, or not?

Summarized Answer:
There is no reason for validity of the pledger taking the pledged asset on rent from the pledgee because it is meaningless that the owner of a thing takes it under rental agreement from another person.

A third person may also not take the pledged asset on rent from the pledgee because the pledgee is not the owner of that asset. It would be a sin for the pledgee for intereferene in the property of another (the pledger) therefore the rental would not be lawful for him and the Sharia would order that to be given to charity or to the pledger (the owner). Likewise, where the person taking the house knows that the house is not owned by the pledgee and is under pledged in his custody, it would be an act of sin on part of the tenant for he lives in the house of another person without permission and helped the pledgee in a sin.

However, if the tenancy agreement is entered into with the permission of the owner (the pledger) or he ratifies it subsequently, the agreement would become permissible and effective, and residing in the house would be lawful and allowed, but this would not amount to taking the house on rent from the owner (the pledger) rather than the pledgee. Hence, the pledger would be entitled to the rent and the pledged house would ceased to be pledged, as stated in *Hindiyyah* and other legal texts. And Allah the Exalted knows better. (25:221–2)

BOOK OF BEQUESTS (*WASAYAH*)

BOOK OF BEQUEST

Chapter on Bequest, Permitted and Preferred as Well as Retraction 677
The Broadway: On distribution of properties through a will 677
Chapter on Emancipation During Death Illness 679
Weaver of dower by wife during death illness 679
Chapter on Bequest for Relatives and Others 681
Distribution among males and females 681
Chapter on Bequest for Residence, Service and Fruit 683
Bequest for financial support 683
Chapter on the Executor (*Wasi*) and his Authority 685
Discretion of the executor 685

Chapter on Bequest, Permitted and Preferred as Well as Retraction

The Broadway: On distribution of properties through a will

Al-Shara al-Bahiyyah fi Tahdid al-Wasiyyah (1317)

Summarized Question: from Shaykh Abd al-Aziz Sarkar (Rangon), 25 Dhilhajjah 1317H.

Zayd had two houses in two different cities. One of these is his old place and the other in Rangon is the new one. He has two wives, on of whom lives in the old place and the other one lives in Rangon. Zyad earned a lot in Rangon and had his properties at both the places. He made *waqf* of a property in old place in favor of a masjid. The annual income from the property is over 5000 dirhams although the monthly expenditure of the masjid is not more than 10 or 12 dirhams. Zayd mentioned in the *waqf* deed that his children from the wife in the old place would be the guardian of the *waqf* and may use the amount in excess of masjid's expenditure for personal benefit. He did not give anything from old place's properties to the children from the wife in Rangon whereas he gave a share in the properties in Rangon to the children from the wife residing in the old place. From the

properties in Rangon, Zayd also executed a will (*wasiyah*) to spend thousands of dirhams from the income of the properties in Rangon on masses and 50 dirahms per month on the masjid in the old place. This can be seen in the attached will. Hence, the will of Zayd is detremental to his heirs in Rangon and in benefit of the heirs in the old place. Therefore, I have few questions: (1) According to the legal texts, making a will is recommended but is it obligatory for the heirs to follow it? If they do not follow the will, would they be accountable or not?

Summarized Answer:
(1) According to the Sharia, it is not obligatory to make a will, and its enforcement is obligatory to the extent of one third of the wealth after payment of debts. This is like *waqf* because creation of *waqf* is not obligatory and it becomes mandatory and liable to be acted upon once *waqf* has been created. Therefore, if the heirs block the will, it would be an act on their part and they would be guilty of not allowing the right of another. The Quran has stated the rights of heirs as secondary to the will. And Allah the Exalted knows better. (25:403–32)

Chapter on Emancipation During Death Illness

Weaver of dower by wife during death illness

Question:
Hinda weaved of her dower receivable from his husband during her death illness except that she said that the dower to the extent of 500 dinars is not weaved and would be payable to her parents after her death. Later, Hinda died leaving behind husband, parents and four brothers. Hinda's parents and her husband now differ on the weaver of the dower and payment of 500 dinars to the parents respectively. In this situation, how would the estate of Hinda be distributed? Was her emanicipation for weaver of the dower and payment of remaining amout to her parents valid, or not? Reply and be rewarded.

Answer:
In the situation stated in the question, the gift of dower by Hinda to her husband during her death illness has become void upon non-permission of the remaining heirs. Likewise, the bequest of 500 dinars in favor of her parents has also become void for the same reason, as stated in the legal texts. Accordingly, the entire dower of Hinda is payable by her husband and all

heirs would have shares in it. Considering the details reported by the person sending this question, the entire dower of Hinda and her other estate would be divided into six parts of which her husband would get three parts, her mother would get one part, her father would get two parts and her brothers would not get anything out of it. And Allah the Exalted knows better. (25:331–2)

Chapter on Bequest for Relatives and Others

Distribution among males and females

Question: from Nawab Molvi Sultan Ahmad Khan (Bareilly), 2 Ramadan 1310H.
What do ulema say about a bequest made for males and females? Would it be divided among them equally or males would get the twice as much share of females?

Answer:
Where there is not direct or indirect detail available and one gender is not being preferred over the other, everyone would get equal share because absence of any difference would remove preference of one over the other. For example, where Zayd bequests for his children, his sons and daugthers would share it equally.

Where Zayd bequests for heirs, males would get twice as much share as that of females because calling it with word 'heirs' is an evidence that he kept the status of heirship in mind, therefore, they would get the shares as heirs.

The entire detail of this matter is present in the Chapter on Bequest for Relatives of *Rad al-Muhtar*. And Allah the Exalted knows better. (25:358–9)

Chapter on Bequest for Residence, Service and Fruit

Bequest for financial support

Question: from Nawab Muhammad Miyan Khan, 28 Dhiqaddah 1312H. Zayd made a bequest of an agricultural land that its income would continue to be paid to those who get financial support since the times of his father and Zayd's own life.

Khalid became a contractor for that land and took care of the right of entitled persons but has now stopped the financial support. Does Khalid have the right to do so? Is this bequest valid according to the Sharia, or not? Reply and be rewarded.

Answer:

Where the bequest is not more than one third of the entire estate of the deceased after paying debts, it would be obligatory to enforce it. Even the heirs cannot stop it, leave aside the employees or contractor. Therefore, if the said land was not more than that, the bequest would always remain completely in-force.

It is stated in *Tanwir*, "Bequest up to one third (of total estate) is valid in favor of a stranger even if heir does not give permission for it." And Allah the Exalted knows better. (25:372)

Chapter on the Executor (*Wasi*) and his Authority

Discretion of the executor

Summarized Question: from Molvi Muhammad Abd al-Sami (Meerut), 4 Ramadan 1310H.
A woman had made a will to a person that he would manage the fund of her few hundred dirhams and distribute seasonal fruits after *fatiha* for (her) reward. The executor ensured the same but he also bought books for students from the fund or meals for poor. The executor did it considering that reward of such acts would be given to her. Only 10 or 20 dirhams are unused which the executor intends to give to a madarasa. What is your view in this regard?

Summarized Answer:
The words 'after *fatiha* for reward' indicate that the distribution is for poor so this is a valid bequest. Moreover, according to the correct view of our school, where the maker makes bequest for distribution of a thing among poor, the executor has the right to distribute its price or *vice versa*, that is he may distribute a thing where the bequest was for distributing the money. Likewise, where bequest was to distribute in installement, the executor

would have the power to distribute in one go. Accordingly, it was valid for the executor to use the money for buying books for students or arrange meals for poor. Likewise, it would be valid if the executor uses the remaining money for poor students of a madarasa. And Allah the Exalted knows better. (25:359)

BOOK OF INHERITANCE (*FARAYID*)

BOOK OF INHERITANCE

Chapter on Distribution of Inheritance 689
A Beneficial Objective: On the fourth kind of heirs 689
The Purity of Sights: On the solution of a case of inheritance 690
A Manifestation of Settlement: On issues related to the science of inheritance 690
A Destruction for Christian Priests: On arithmetic of shares in inheritance 690

Chapter on Distribution of Inheritance

A Beneficial Objective: On the fourth kind of heirs

Al-Maqsad al-Nafay fi Asubat al-Sinf al-Rabay (1315)

Summarized Question: from Molvi Wasi Ali (Etawah), 5 Ramadan 1315H
The four kinds of the relations entitled to inheritance (*asaba*) are fixed: ancestors of deceased, descendants of deceased, descendants of father of deceased and descendants of forefathers of deceased. There is clarity about the first three kinds. However, the matter of the fourth kind is very vast. I have few questions about this fourth kind. (1) What is the source of the kinds of relations entitled to inheritance especially the fourth kind, that is which verse of the Quran and which hadiths are the sources of these rules?

Summarized Answer:
The source are the orders of Allah the Exalted and the Prophet. Allah says, "And relations are nearer to one another in the Book of Allah; no doubt, Allah knows everything." The author then cites four hadiths in support of his fatwa. And Allah the Exalted knows better. (26:153–66)

The Purity of Sights:
On the solution of a case of inheritance

Tayab al-Amaan fi Tadud al-Jihat wa al-Abdan (1317)

Summarized Question: 26 Dhilhajjah 1317H.
Zayd had two brothers and two sisters. The question presents their descendants of next two generations and demands the share of each heir.

Summarized Answer:
The author presents diagrams to analyze the types and share of heirs. Calculations of share of each heir is stated by the author. (26:189–205)

A Manifestation of Settlement:
On issues related to the science of inheritance

Tajaliyat al-Salam fi Masayil min Nisf al-Ilm (1321)

Summary: The author has compiled six questions related to various cases of inheritance and a book written by a scholar on inheritance. The author notes that the replies given by other scholars to these were deficient so the correct replies are being provided by the author. (26:213–71)

A Destruction for Christian Priests:
On arithmetic of shares in inheritance

Hadam al-Nasrani wa Taqsim al-Imani (1317)

Summarized Question: 26 Dhilhajjah 1317H.
Some Christian priests have claimed that implementation of the injunctions stated in the Quran about estate of a deceased is impossible in certain situations, for example two third share of Zayd and half share of Khalid because sum of $^{2}/_{3}$ and ½ is $^{7}/_{6}$.

Summarized Answer:
The purpose of calculating shares is to know as to how much inheritance one heir get in comparison to others. In this proportionate division, sometimes reference to the total is relevant and sometime share is calculated with mutual ratio. (Published in *Tohfa-i Hanafiyyah*, volume 2, issue 4, 17–205)

BOOK OF VARIOUS ISSUES (*MASAIL SHATTA*)

BOOK OF VARIOUS ISSUES

Chapter on History, Biographies of Masters and Fables 695
A Talk with the Crescent: On the date of birth of the Prophet Muhammad 695
The Compilation of the Quran: Hadrat Uthman's role in Publishing the Quran 696
Chapter on the Quranic Exegesis and Related Sciences 697
The Sharp Sword: The Quranic verses on knowing what is inside a womb 697
Chapter on Gatherings and Events 699
The Start of the Final Day: A response to opposition of standing in reverence 699
Chapter on Sufism and Spritual Orders 701
A Disclosure of Truths: On the realities, secrets and fine points of Sufism 701
Chapter on Prays and Amulets 703
Permission for recitating specific prays 703
Chapter on Interpretation of Hadiths 705
The Kindness of Gifting: Abu Hanifa's saying on hadith with a valid certificate 705
Chapter on Interpretation of Juristic Principles 707
Different schools of law 707
Chapter on Philosophy, Astronomy and Astrology 709
An Obvious Help: Against American Professor Albert F. Porta's prediction 709
A Brilliant Victory: Against the Modern Philosophy on the Earth's motion 710
The Revelation of the Quranic Verses: On the stationary Earth and Sky 710
The Revealed Statement: Against certain principles of the Ancient Philosophy 711
The Iron Maces: Against certain principles of the Modern Logic 712
Chapter on Rebuttal of Deviant Sects 713
A Shining Asteroid: On the Wahhabis' denial to follow a single school of law 713
A Burning Arrow: On the Wahhabis' deception of differing only in *taqlid* 714
Averting the Crow's Caw: On impressibility of eating crow 714
A Blissful Rain: Against refusal to follow a single school of law 714
Chapter on Call for Prayer, Prayer and Masjid 715
The Fragrances of Ambergris: 2nd call to Friday prayer be in front of minbar 715
Chapter in Praise of the Companions and Masters 717
The Expulsion of the Viper: Shaykh Rafai in the court of Shaykh Abd al-Qadir 717
Fatwas on the Miracles of Shaykh Abd al-Qadir: On queries related to him 718
Purity of Hadrat Ali's Status: On his purity from the dirt of pre-Islamic times 719
An Ultimate Research: Imamate of Hadrat Ali and Hadrat Abu Bakr Siddiq 719
The Pure Sweet Water: Hadrat Abu Bakr's highest status after the Prophets 720
Chapter on Prosody (*Uroz*) and Rhyme (*Qawafi*) 723
Bahr-i salim or *bahr-i mazahaf masba* 723
Chapter on Learning and Education 725
Teaching of issues related to adults and translation of contents 725
Chapter on Speaking 727
Transfer of ownership by words or action 727
Chapter on Speech and Propagation 729
Conditions for an orator 729
Chapter on Animal Sciences 731
Origin of animals 731

Chapter on Human Anatomy 733
Two hearts in an individual 733
Chapter on Letters and Numbers 735
Numerical rebuttal of a Rafdi's analogy 735
Chapter on Rights of People 737
Types of breaches in adultery 737
Chapter on Linguistics 739
Loanwords from Arabic language with modified meaning 739
Chapter on Interpretation of Dreams 741
Types of dreams 741
Chapter on *Ijarah* 743
Failure to offer the agreed service 743
Chapter on Faith and *Kalam* 745
The Strictures by the Wrathful: On refuting the belief that Allah has a body 745
An Ice for the Chest: On belief in the fate 746
The Beautification: On the command for effort in accomplishing a purpose 747
The Faith of the Friends: About Allah, the Prophet, family and companions 748
A Spear of the Subduer: On debate following books on Islamic faith 748
The Purity of the Belief: On clarifying the Prophet's knowledge of the Unseen 749
The Revelation to the Chosen One: The vast knowledge of Prophet Muhammad 749
Explaining the Fault: On replying those who attack the Prophetic knowledge 750
The Caution Lights: In support of chanting the words *Ya-Rasul-Allah* 751
The Recitation of Forty Hadiths: On intercession by the Prophet Muhammad 751
The Twenty Points: On the distinctive beliefs of Sunnis 752
An Explanation of the Meanings: About the faith of Abu Talib 753
A Radiant Flame: On evil of intentional expression of words of infidelity 754
Chapter on Interpretation of the Sayings of Masters 755
Meaning of a stanza written by the author 755
Chapter on Recitation of the Quran 757
Number of times Surah al-Ikhlas to be recited in *tarawih* prayer 757
Chapter on the Quranic Writing 759
Spelling of the word '*kalam*' 759
Chapter on Astronomy, Timings and *Taqwim* 761
Timings of the Virgo constellation 761
Chapter about the Most Beloved Prophet 763
The Light of the Certainty: On our Prophet's high status among the Prophets 763
The Inclusion in Islam: On Islamic faith of the ancestors of the Prophet 764
The Preamble to the Faith: On belief about the Prophet and his sanctity 765
The Tranquility and the Eminence: On the Prophet's power to save from evil 766
The Aim of the Wise: On the Legislative Authority of the Prophet 767
The Source of the Wish: On the Prophet's visit to the Tablet and the Sighting 767
The Blessings of the Inherent Purity: The Prophet being made of the divine light 768
The Absence of the Shadow: On research about shadow of the Prophet's body 769
The Full Moon: On absence of shadow casted by the Prophet's body 770
A Guidance for the Perplexed: On absence of shadow of the Prophet's body 770

Chapter on History, Biographies of Masters and Fables

A Talk with the Crescent: On the date of birth of the Prophet Muhammad

Nutq al-Hilal Barakh Wilad al-Habib wa al-Wisal (1317)

Selected Questions:
(4) What is the day of birth of the Prophet Muhammad? (5) What was the month? (6) What was the solar date on the day of hir birth?

Summarized Answer:
(4) It was Monday according to the consensus of ulema, Imam Ibn Hajr has stated so in *Afdal al-Qura*. The Prophet said about Monday, "I was born on this day."

(5) There are reports about Rajab, Safar, Rabi al-Awwal, Moharam and Ramadan, and the correct and famous report of the majority is for the month of Rabi al-Awwal. It is stated in *Madarij*, "Famous (report) is that it was in Rabi al-Awwal." It is stated in *Sharh al-Hamziyyah*, "The correct (report) is that it was in the month of Rabi al-Awwal." It is stated in *Mawahib*, "That is the statement of the majority of ulema" and then mentions "the

correct view is that it was in the month of Rabi al-Awwal." It is stated in *Sharh Zarqani*, "Ibn Kathir has stated this is famous according to the majority (of ulema)."

The person seeking the reply has not asked about the date of the nobel birth. There are seven statements about the date: 2, 8, 10, 12, 17, 18 and 22. However, famous, majority-owned, mostly reported and authentic view is that the date was 12.

(6) It was 20 April 571AD. And Allah the Exalted knows better. (26:405–27)

The Compilation of the Quran: Hadrat Uthman's role in Publishing the Quran

Jama al-Quran wa Bima Azuh li Uthman (1322)

Question: (Bareilly), 13 Jamadil al-Awla 1322H.
Was the Quran compiled by Hadrat Uthman or it was compiled earlier by someone? It is said that Hadrat Abu Bakr had compiled it but it was buried. Is it true or not? Reply and be rewarded.

Summarized Answer:
The compilation, sequencing of verses, completion and details took place in the era of the Prophet, Allah's peace and blessings upon him, on order of Allah, according to the statement of Angel Gabriel and on instruction of and teaching of the Prophet. However, the Quran was saved in the memories of the Companions, pieces of paper, stone plates, hides, shoulder and ribs of goats. After the Battle of al-Yamamah, Hadrat Umar requested Hadrat Abu Bakr to order compilation of the Quran who appointed Hadrat Zayd Ibn Thabit for this task. Every chapter was in a separate book which remained in the custody of Hadrat Abu Bakr and thereafter Hadrat Umar and then his daughter Hadrat Hafsa Bint Umar, a wife of the Prophet.

During his Caliphate, Hadrat Uthman obtained the books from Hadrat Hafsa and compiled these into a volume on advice of Hadrat Ali and other companions to address the issue of different accents that were being followed by Muslims of different areas of the Islamic territory. Hadrat Uthman dispatched copies of this volume to different regions for standardization of the accent across among all Muslims. For this contribution, Hadrat Uthman was given title of the Compiler of the Quran (*Jami al-Quran*). (26:439–50)

Chapter on the Quranic Exegesis and Related Sciences

The Sharp Sword: The Quranic verses on knowing what is inside a womb

Al-Samsam ala Mushaqiq fi Ayat-i Ulum al-Arham (1315)

Question: from Molvi Qadi Abd al-Wahid Firdosi (Patna), 9 Jamadi al-Awla 1315H.
What is your fatwa about the following matter? Allah the Exalted has declared in the Quran that no one knows about the gender of what is inside a womb whereas a tool has been invented that informs about it.

Summarized Answer:
The author quotes seven verses of the Quran and states that the verse of the Quran referred in the question reflects an easy and very brief indication of the unlimited knowledge of Allah the Exalted about everything that is in a womb, like upon getting pregnant, before that and upon giving birth, everything that occurred to the fetus and would occur, living duration of the baby, his/her activities, and every development taking place in the womb like every part of body, every pore getting weight and the slimness,

fatness, food, little and more movement, shortage and excess of blood and the expansion and contraction of the belly for supplies, air and liquids; in short everything is in the knowledge of the Exalted. In this there is neither specific mention of gender nor there is negation of its knowledge. Therefore, the objection in the question is useless and ambiguous. The actual objective seems to be ignorance of the meaning of the verses or blaming the Almighty. The Quran has not stated anywhere that gender of what is inside a female's womb cannot be known through any tactic. (26:467–87)

Chapter on Gatherings and Events

The Start of the Final Day: A response to opposition of standing in reverence

Aqamat al-Qiyamah ala Tayin al-Qayam li Nabi Tahamah (1299)

Question: from (Rampur), 1299H.
What do ulema say about standing in reverence upon the statement of the nobel birth of the Prophet in a gathering (*majlis*) of *mawlid*? How should people who oppose to stand in reverence and call such an act prohibited and illegal innovation (*biddah*) be responded? Reply and be rewarded.

Summarized Answer:
The reply has two parts. In the first part, the injunction would be quoted from the fatwas and books of earlier ulema to support the view of the people who stand in reverence and response to the opponent. In the second part, a response to the misunderstanding prevalent among senior and new opponents who declare every act as illegal innovation (*biddah*) if it was not prevalent in the first two centuries of Islam and thus declare Ahl-i Sunnah and thousands of its imams as deviants.

(1) No injunction of the Sharia is outside the Quran, but not everyone can draw these from the Quran. Emerging matters and inventions are

unlimited so even if the Hadith had mentioned these, it would have been impossible to manage and memorize the injunctions. Therefore, these described the principles to be interpreted by jurists who occupy the *mujtahid* designation. Likewise, imams and ulema of every subsequent era have described the injunctions.

The gatherings to celebrate *mawlid* (the nobel birth of the Prophet Muhammad, Allah's peace and blessings upon him) and standing during these gatherings in reverence, respect and as tribute to the Prophet are prevalent for centuries. Therefore, demanding its evidence from the times of the companions and the generation after them would be insane and the evidence would be needed from the time these became prevalent, like Ibn Hajr, Jalal al-Din al-Suyuti and Ahmad Qistalani for *mawlid* gatherings. Likewise, the evidence from the ulema would be admissible for standing in reverence. This would be sufficient for the people who practice it. As for the opponent, they only accept evidence as per their wishes and have opposed the statements of imams, the companions, hadith and even the Quran. Allama Ali Ibn Burhan al-Din Halabi has stated the standing in reverence as a good innovation (*biddah al-hasna*) in *Insan al-Uyun*. He writes:

> Certainly, standing in reverence upon recitation of the name of the Prophet was noted from Imam Taqi al-Din Sabki, Allah be pleased with him, who is an *alim* of the Ummah and imam of imams in Sharia and *Taqwa*. His contemporary ulema followed him in standing for reverence. Some of them, that is Imam Abd al-Wahhab Sabki reported in *Tabqat al-Kubra* that a large gathering was present with Imam (Taqi al-Din) Sabki. Someone was reading the couplet of *nat* (poem in praise of the Prophet) written by Imam Sarsari that could be summarized as "it is not much of praise of the Prophet that *nat* is written by a person with good handwriting on silver paper with golden ink and the people having notable figures in the religion line up and fold their hands stands in reverence on knees or feet. Upon hearing this couplet, Imam Sabki and other ulema present in the gathering stood up in reverence and this resulted in heart-felt situation in the gathering. This is sufficient to follow this practice.

(2) The author presents some principles in second part. (1) The original injunction is that acts and things would be allowed if the prohibition of these have no evidence from Sharia. (2) An act recognized as good by the Sharia would be good until it is disallowed in some specific situation. An act in reverence of the Prophet is always good. (3) There is no such principle that every act of Muslims is proved directly from the Quran and the Hadith. (4) A good act is always good and a bad act is always bad irrespective of the era in which it occurs. (5) Interpretation of a hadith that no good act or thing may occur after the earlier periods of Islam is a wrong interpretation of the hadith. (6) If the praise of an era and destruction of a subsequent era makes it condition that all acts and things or the first era are good and those of later era are bad, even the acts and things of the Companions would become target of objection by wrongdoers. (26:495–550)

Chapter on Sufism and Spritual Orders

A Disclosure of Truths: On the realities, secrets and fine points of Sufism

Kashf-i Haqaiq wa Israr wa Daqaiq (1308)

Summarized Question: from Sayyid Nur al-Hasan (Baroda), 25 Shaban 1308H.
Four stanzas related to Sufi issues are presented here for commentary.

Summarized Answer:
(1) Allah the Exalted is kind (*Rahim*) and also the one who prevails over all creation (*Qahar*). The kindness reflects the softness and being *Qahar* reflects the aggression. For kindness, Allah grants all the good things and the Heaven to the individuals whom Allah likes. Being *Qahar*, Allah punishes enemies and would send them to the Hell. However, Allah's kindness is sometimes disguised into hardship. Likewise, wealth and power are given to enemies for letting them remain ignorant until Allah finally catches them.

(2) An example of this could be the sunshine. The Sun is one but the Moon and other objects reflecting its light reflect it differently at different

times and in different situations. This could help us understand the reflection of the Divine Light. (26:595–604)

Chapter on Prays and Amulets

Permission for recitating specific prays

Question: from Hakim Ali Ahmad Khan
[No question is stated. Apparently, Hakim Ali Ahmad Khan who was son of the author's sister requested the permission to recite some prays.]

Summarized Answer:

Allah's name I begin with, the Compassionate, the Merciful.
We praise Allah and send Salutations upon Allah's Noble Messenger.

This humble servant, may Allah forgive me, hereby gives a general and valid permission of all spiritual diagrams (*naqosh*), amulets (*tawizat*) in respect of which I have permission from my ancestors, shaykhs or Hadrat Abu al-Husayn Nuri Miyan, or those that I obtained from the statements of imams and *awliya*, or those developed or to be developed by me, to my sister's son Hakim Ali Ahmad Khan. May Allah the Exalted blesses him with kindness.

The condition for this permission is that you must neither use these for an act in contravention of the Sharia nor should you give or tell these to anyone who wants to act in contravention of the Sharia. For example, women often want to get their husbands subservient to them so that husband does what his wife wants. This is prohibited and has been stated as polytheism in a hadith. Allah the Exalted has made man the ruler and not

the servant of his women. Some women want that husband severes contact with his mother and sisters and do not give anything to them but only to her. These are all ill wishes. In criminal cases, Muslims be given amulets for protection. In civil and financial cases, these must not be given until it is known that the person requesting is entitled to it because helping a wrongdoer is prohibited. (26:607–8)

Chapter on Interpretation of Hadiths

The Kindness of Gifting:
Abu Hanifa's saying on hadith with a valid certificate

Al-Fadal al-Muhibi fi Mani az Asah al-Hadith Fahu Madhabi (1313)
also known as
Aaz al-Nikat bi Jawab-i Sawal-i Arkat (1313)

Summarized Question: from Muhammad Umar (North Arcot), 13 Rajab 1313H.
Where a Hanafi follower acts according to a valid and uncancelled hadith, adopted by any of the four imams, like saying '*amin*' loudly after *Surah Fateha* in prayers, raising hands upto ears while proceeding to bowing in prayers, would that follower still remain a Hanafi? If the answer is in affirmative, what would be the meaning of Imam Abu Hanifa's statement that 'where a hadith is proved to be valid, my ruling would be according to that hadith'?

Summarized Answer:
The meanings of the word 'validity' are different for experts of hadiths and for jurists. Sometimes a hadith's chain of transmission is weak but imams act according to that hadith based on other factors and according to the

principles of the Sharia and this act gives strength and validity to the hadith. Sometime a hadith has a valid chain of transmission but a *mujtahid* imam does not act according to that hadith because he has a reason to do so, like that hadith is opposing an injunction of the Quran, or another valid hadith contracdics that hadith and has preference over it for many reasons and so on. Therefore, mere validity according to the experts of hadiths is not sufficient for act of a *mujtahid*. (27:61–88)

Chapter on Interpretation of Juristic Principles

Different schools of law

Question: 17 Rabi al-Akhira 1332H.
We have the belief that all four Sunni schools of law are valid. They differ in legal position of a specific thing which is declared as permissible by one of them and prohibited by others. For example, eating tortoise is prohibited according to the Hanafi school but allowed under the Shafi'i school whereas it is impossible that the same thing is prohibited and allowed and both are called correct. Reply with arguments and be rewarded.

Summarized Answer:
The person sending in the question has incorrectly given the example of tortoise. Tortoise is not permissible according to the correct view of the Shafi'i school. Yes, there are things that are allowed according to the Shafi'i school and prohibited according to the Hanafi school, like a permissible animal slaughtered while intentionally skipping the recitations of *tasmiyyah* and uromastyx (*dab* or *sosmar*) and, according to the view of some Shafai'i jurists, also tortoise. In any case, declaring both schools as correct means that Allah's order for the followers of a school is according to the decision

of its *mujtahid* imam. Therefore, where a Shafi'i follower eats an animal that was slaughtered while intentionally skipping the recitations of *tasmiyyah*, there would be impact on him judicially, he would not be punished and accountable for it on the Day of Judgement. However, a Hanafi follower for which it is prohibited and who does so would be guilty of misconduct, liable to be punished and accountable on the Day of Judgement. The same applies to a reverse situation for things lawful for us (in Hanafi school) but prohibited according to the Shafi'i school.

According to Imam Abu Hanifa, "Every *mujtahid* reaches to the correct output but the truth from Allah is only one that mujtahid is able to find sometimes and not other times." (27:89–90)

Chapter on Philosophy, Astronomy and Astrology

An Obvious Help: Against American Professor Albert F. Porta's prediction

Muin-i Mubin Bahr Daur-i Shams wa Sakun-i Zamin (1338)

Question: from Molvi Zafar al-Din Bihari (Sasaram), 18 Safar 1338H.
A cutting of English daily newspaper *The Express* published from Bankipore reporting a prediction of an American Engineer Albert is presented for viewing and opinion. Nawab Wazir Ahmad Khan and Sayyid Ishtiaq Ali have translated it into Urdu language. A summary of the news is as follows. Professor Porta has predicted that on 17 December the conjunction of six planets, Mercury, Mars, Venus, Jupiter, Saturn and Neptune, would occur within a short distance of 26 degree on one side of the Sun; their collective electromagnetic pull, combined with the counterpull of Uranus, would induce a massive sunspot on 17 December, a gigantic explosion of flaming gases, leaping hundreds of thousands of miles out into space; this would trigger the greatest weather cataclysm in history; the conjunction would pierce the sun, cause great explosions of flaming gas and engulf the Earth.

Summarized Answer:
It is not permissible for Muslims to pay attention toward such predictions. (1) He has based it on centers of the lengths of these planets which is called 'assumed length from the center of the Sun' in the Modern Astronomy. In this, the six planets have a conjunction within distance of 26 degrees and 23 minutes. However, this assumption is itself void and rejected by the statements of the Quran. Neither the Sun is the center nor are the planets orbit around it. The center of the Earth is the center of the world, and all planets and the Sun itself orbit around it. (27:229–42)

A Brilliant Victory: Against the Modern Philosophy on the Earth's motion

Fauz-i Mubin dar Rad-i Harkat-i Zamin (1338)

Summary:
After writing the booklet *An Obvious Help* (*Muin-i Mubin*) in response to the prediction of the American Professor Albert F. Porta, the author proceeded to write this book for responding to the Modern Philosophy /Science's theory of Gravitational Pull in detail. The book comprises an Introduction, four Chapters and an epilogue.

The Introduction presents the principles of the Modern Astronomy that are used in the book.

First chapter discusses counterpull (*nafirah*) and 12 arguments to rebut the supposed movement of the Earth.

Second chapter discusses gravitational pull (*jadhibah*) and 50 arguments to rebut the supposed movement of the Earth.

Third chapter presents 43 further arguments to rebut the supposed movement of the Earth making the total to 105 arguments. The author states that 15 of these were stated in the books of earlier scholars and have been corrected by the author, and 90 arguments have been introduced by the author for the first time.

Fourth chapter is in rebuttal of the arguments presented by the Modern Astronomy to support the alleged movement of the Earth.

The Epilogue comprises of the proofs from the verses of the divinely sent books for movement of the Sun and inertia of the Earth. (27:243–382)

The Revelation of the Quranic Verses: On the stationary Earth and Sky

Nuzul-i Ayat-i Furqan ba Sakun-i Zamin wa Asman (1339)

Summarized Question: from Professor Hakim Ali (Lahore), 14 Jamadi

al-Awla 1339H.
The Earth does not move means it does not move from its orbit. Hadrat Abd Allah Ibn Masud states lack of movement of the Sky but not the Earth.

Summarized Answer:
The Islamic view is that the Earth and the Sky both are stationery, and stars are moving. Allah the Exalted has informed, "Everyone of these is moving in the Sky." This is like a fish moving in water. The command of Allah the Exalted, "No doubt, Allah has kept the Sky and the Earth unmoved so these do not drift; and no one would be able stop these if these start to move; no doubt, Allah is the Forbearing and the Great Forgiver" is known to you. The highest in jurisprudence, after the four caliphs, Hadrat Abd-Allah Ibn Masud and Hadrat Huzayfa Ibn al-Yaman, Allah be pleased with them, interpreted the verse as unconditional forbiddance of the movement so-much-so that they stated the rotation on axis as *zawal* (movement). Imam Abu Malik, a student of Hadrat Abd-Allah Ibn Abbas, declared the word *zawal* unconditionally as the movement. No one understood the Arabic language and meanings of the Quran more than them (the Companions and their students). (27:195–228)

The Revealed Statement:
Against certain principles of the Ancient Philosophy

Al-Kalmat al-Mulhimat fi al-Hikmat al-Muhakimat Lawiha-i al-Falsafa al-Mashamat (1338)

Summary:
I wrote a detailed book in rebuttal of the Modern Philosophy with the title *A Brilliant Victory* (*Fauz-i Mubin*). The book contained 105 arguments against movement of the Earth and rebuttal the false concepts of the Modern Philosophy, like gravitional pull (*jadhibah*), counterpull (*nafirah*) and others. I wrote a footnote in its Third Chapter in which I stated the ten arguments presented by the Ancient Philosophy (*Falsafa-i Qadimah*) to refute the movement of the Earth. I refuted these arguments being incorrect. The refutation prompted to refute the principles of the Ancient Philosophy. I wrote 30 points to refute its principles. The footnote thus became lengthy. My son, Mustafa Rida, advised that these points may be given shape of a separate book that details with the Ancient Philosophy.

Accepting his advice, this book comprises 31 points. (1) Allah is the doer with the ultimate authority, and Allah's acts are neither dependant on anything preferred nor linked to anyone's expertise. (2) Allah is the sole and the single creator of all the worlds, and minds are neither Allah's partner nor are these intermediaries in the creation. (3) Skies are not the end of worlds. (4) A static thing does not need to have any tendancy to fall.

(5) Space is not an impossibility. (6) Face, structure, size and other things needed in a thing such that the thing cannot be imagined without these, natural existence of any of these things is not mandatory (for existence). (7) The body of the highest sky is distributed. (8) The center of the body of the Sky is not a curved. (9) It is not mandatory for a thing to have a center of body. (10) It is not impossible that a created movement is natural. (11) The created movement of the Sky can also be natural. (12) Failure to reach the maximum point of the nature of a thing is not impossibile. (27:383–574)

The Iron Maces: Against certain principles of the Modern Logic

Maqama al-Hadid ala Khad al-Mantiq al-Jadid (1304)

Question: from Sultan Ahmad Khan (Bareilly), 1 Rajab 1304H.
I borrowed the book *Al-Mantiq al-Jadid li Natiq al-Nalahu al-Hadid* written by Molvi Hasan Sambhali for reading and noted that it contains philosphers views and contradictions of the way of Islam and the Sunnah. I am submitting some statements from the book for seeking your fatwa on these.

Summarized Answer:
(1) *Statement:* There are 10 more creators of this world besides Allah. *Reply*: This belief is an infidelity.

(2) *Statement:* The elements used in making bodies is *qadim* (existing since infinity). *Reply*: This statement is an infidelity.

(3) *Statement:* The structure of bodies and species is *qadim*. *Reply*: This is an infidelity.

(4) *Statement:* The Ten Minds (*Aqol-i Ashra*) and *nafus* (spirits) are *qadim*. *Reply*: This is an infidelity.

(5) *Statement:* Some things have more right to be created and it would be clingy and result in preference of the non-priority if Allah does not create these. *Reply*: This statement is an illegal innovation (*biddah*), deviation (from correct) and nearly an infidelity.

(6) *Statement:* The Ten Minds are free from any defect and deficiency and it is impossible that anything in the world remains hidden from these at any time. *Reply*: This is attached with infidelity.

(7) *Statement:* Creation and Change: Neither anything is created not would it end. The things we call as having been created were hidden and things we call as having ended actually disappear. In reality, everything was always present and would always remain present. *Reply*: This statement is an infidelity and attached to numerous infidelities. (27:105–93)

Chapter on Rebuttal of Deviant Sects

A Shining Asteroid:
On the Wahhabis' denial to follow a single school of law

Al-Naiyar al-Shahabi ala Tadlis al-Wahhabi (1309)

Summarized Question: from Jahangir Khan (Ghazipur), 15 Safar 1309H. Zayd has read few books of all four schools of law to know some issues. He does not believe it mandatory to follow a single school of law. Amar argues with him that even senior ulema consider it obligatory to follow one school of law. Who is correct between them?

Summarized Answer:
The research and details of the issue of following a single school of law (*taqlid*) is longer andhat I have described its arguments in my books *The Strict Prohibition* and *Al-Bariqah al-Shariqah ala Mariqah al-Mashariqah*. I would restrict this reply to answering the wrong view of Zayd. Shah Wali Allah has writtin in *Insaf*, "After initial two centuries of Islam, following the school of one *mujtahid*, became common and there was hardly anyone left who did not rely on a law school of a single imam, and this became obligatory since then." It is not possible to follow all four schools together, therefore, the claim that all four schools should be followed is void. (27:581–96)

A Burning Arrow:
On the Wahhabis' deception of differing only in *taqlid*

Al-Saham al-Shahabi ala Khada al-Wahhabi (1325)

Summarized Question: from Jamat Memonan (Kathiawar), 8 Shawal 1325
A molvi has written a series of Urdu books for Muslim kids wherein he has stated that the difference between the Wahhabis and Hanafis is similar to the difference among law schools. The question reproduces various quotes.

Summarized Answer:
The said person is a *Ghayr-muqallid* Wahhabi and he is merely deceiving Muslims to educate the Wahhabi faith and matters to Sunni kids. The Wahhabis deny juristic consensus and juristic analogy. (27:597–619)

Averting the Crow's Caw:
On impressibility of eating crow

Dafa-i Zaygh-i Zagh also known as *Rami-i Zaghiyan (1320)* (Stonning the Cawers)

Summary: This booklet is a collection of correspondence. The first letter was written by the author to Deobandi spearhead Rashid Ahmad Gangohi asking 40 questions related to the permissibility or prohibition of eating crow. The questions relate to confirmation of two papers published by the disciples of Gangohi, habits of crow and juristic citations. The reply to this was given by Rashid Ahmad Gangohi on a post card, however, he refused to answer the 40 questions. The second letter from the author analyses the response from Gangohi and a final call to reply the first letter. (27:621–41)

A Blissful Rain:
Against refusal to follow a single school of law

Atayab al-Saiyyab ala Ard al-Tayyab (1319)

Summary: This booklet is a collection of correspondence between the author and Molvi Tayyab Makki (of Madarasa Aliya, Rampur). In the first letter, Molvi Tayyab asked about argument of the author's view in *Removal of Insult* that following a school of law is absolute mandatory. The author replies and asks 12 counter questions. In reply, Molvi Tayyab raises some questions about the power granted by Allah the Exalted to *awliya*. The author replies to the questions and demands answers to the 12 questions. The last two letters of the author are reminders seeking reply. (27:643–82)

Chapter on Call for Prayer, Prayer and Masjid

The Fragrances of Ambergris: 2nd call to Friday prayer be in front of minbar

Shamayimat al-Anbar fi Adab-i al-Nida-i Imam al-Minbar (1333)

Summary:
The author wrote this book in Arabic language and has addressed the ulema of Makkah and Medina at the start. In the prologue, the author highlights that the background of numerous bad activities is that they spread after inception despite warning by the righteous people and their criticism and opposition does not seem bring the correction. There are many reasons for this. (1) Government uses its influence and resources to popularize these wrong innovations. (2) Mischievous people put effort to make it customary. (3) The ulema who could block it think that people are so occupied in following their wishes that they would not listen to them and that enough guidance has been provided by the ulema in the matter and there is no harm in remaining quiet then and thus they refrain from providing continuous guidance on the matter and the malpractice continues to spread. The masses over the time consider these are practiced from early times althought the

act is an innovation. The sign of it being an illegal innovation is that it is opposed to a sunnah act, opposed of praise-worthy attributes, there is no occurance of it in early period of Islam, nothing is known about the time of its started and the person who initiated it is and this lack of knowledge makes people believe that the act is in practice since inception although there is no history or argument in support of the act. People have such a short memory that they do not remember even the recently invented things and they may believe such an act to be a sunnah. Thus, a bad act is viewed as good and *vice versa*. The author presents arguments in the following chapters.

(1) The author discusses and analyzes the chain of transmission of the following hadith:

> He (Hadrat Bilal) would make call for prayer in front of the Prophet, Allah's peace and blessings upon him, on the gate of the masjid when he (the Prophet) set on minbar on Friday, and (during the rule of) Hadrat Abu Bakr and Hadrat Umar, Allah be pleased with them.

(2) The author presents evidence from Hanafi legal texts *Khaniyyah*, *Khulasa*, *Khazanat al-Muftayn*, *Sharh Naqayah lil Abd al-Ali*, *Hidiyyah*, *Tatarkhaniyyah* and *Majma al-Barkat* in support of the fatwa that call for prayer is not to be made inside a masjid.

(3) The author presents supporting evidence from the Quran.

(4) The author reveals that the opponents have not been able to cite a single hadith with a valid *sanad* (chain of transmission) or statement from the legal texts that might show occurance of the call for prayer inside a masjid and besides the minbar, as prevalent in this era. (28:53–359)

Chapter in Praise of the Companions and Masters

The Expulsion of the Viper: Shaykh Rafai in the court of Shaykh Abd al-Qadir

Tard al-Afayi an Hami Hadin Rafa al-Rafai (1336)

Summarized Question: from Miyan Muhammad Uthman (Baroda), 26 Shawal 1336H.
Zayd says that Shaykh Ahmad Kabir al-Rafai was the *Ghauth* (the spiritual helper) and *Qutb al-Aqtab* (the head of *Awliya*) during his times instead of Shaykh Abd al-Qadir and that Shaykh Abd al-Qadir entered into the discipleship of Shaykh Rafai. Amar says that Shaykh Rafai was certainly among the *awliya*, however, he cannot be called as more in *fadal* (rank in the court of Allah the Exalted) than Shaykh Abd al-Qadir. Whose claim is valid?

Summarized Answer:
Allah the Exalted declares in the Quran, "You should announce that *fadal* is from Allah and is given by Allah to whosoever Allah wishes." This verse has two instructions for Muslims. (1) A Muslim must not call an individual as having more *fadal* than another individual on his own because granting

fadal is from Allah the Exalted and is granted by Allah whomsoever Allah wishes. (2) Where an individual is proved through admissible argument to have more *fadal* than another individual, a Muslim must not involve personal wish, and personal relation through similarity of area, lineage, or being disciple or follower. The reason is that we cannot grant *fadal* so that we could place our ancestors, teachers and sufi masters as having more *fadal* than others. A person granted more *fadal* certainly has more *fadal* even if we do not have any personal relation with him, and one who has lesser *fadal* than another would have lesser *fadal* than that person even if we have all relations with him. This is the decency of Islam and a Muslim should act according to it. *Awliya* were themselves *fana* (selfless) in the court of Allah and would not be happy if someone calls them more in *fadal* than one who has been granted more *fadal* than them by Allah. They would certainly be first ones to be angry over it. Therefore, it is not beneficial to contradict the grant of Allah and displease the *Awliya*.

Shaykh Ahmad Kabir al-Rafai was certainly among the *Awliya*. However, it is certainly absurd that Shaykh Abd al-Qadir entered into the discipleship of Shaykh Rafai. Shaykh Abd al-Qadir was *qutb* during his lifetime, and Shaykh Ali Ibn Hayti became *qutb*, then Shaykh Khalil Sarsari, and then Shaykh Ahmad Kabir al-Rafai became *qutb*. (28:367–402)

Fatwas on the Miracles of Shaykh Abd al-Qadir: On queries related to him

Fatawa-i Karamat-i Ghauthiyyah

Selected Question 1: from Yaqub Ali Khan (Ujayn), 17 Rabi al-Akhir 1310H.

The author of *Tohfa-i Qadiriyyah* has written that *Buraq* (animal from the Heaven that served as the Prophet's vehicle) on the night of Ascension became so happy that its body expanded so much that the Prophet hand could not reach to the rein and foot to the stirrup. The spirit of Shaykh Abd al-Qadir appeared and submitted to the Prophet, "Put your foot on my neck to mount." The Prophet moved up and asked about his introduction to which the Shaykh introduced himself. The Prophet prayed for him.

Summary Answer:

The hadiths state that the *Buraq* got very excited while the Prophet proceeded to ride on it. Upon this, the Angel Gabriel warned the *Buraq* and it was embarrassed. It is stated in one report, "On Gabriel's intervention, the *Buraq* was shocked and proceeds to lie down, and I mounted." The report of the event in the question cited from *Tohfa-i Qadiriyyah* is narrated by sufi masters, like the author of *Tafrih al-Khatir fi Manaqib-i al-Shaykh Abd al-Qadir*. The report also does not contradict the hadith referred above

because where the height of the *Buraq* expanded so much, it would still be very high to mount in a normal manner even if the *Buraq* lied on the floor. The presence of Shaykh's spirit like many seniors is also likely. (28:403–30)

Purity of Hadrat Ali's Status: On his purity from the dirt of pre-Islamic times

Tanziyyah al-Makanat al-Haydariyyah an Wasmat-i Ahad al-Jahiliyyah (1312)

Question: from Molvi Abd al-Ghafor (Banaras), 9 Jamdi al-Akhira 1312H. Zayd says that Hadrat Ali accepted Islam while he was still a minor and was never involved in worshiping idols etcetera. Hence, saying that he was not previously a Muslim is not valid and is against his honor. Amar says that since minor children are subservient to parents and his parents were not Muslims, therefore, he was previously not a Muslim and became Muslim later. Is Zayd correct or Amar? Reply and be rewarded.

Summarized Answer:
The statement of Zayd is correct and valid and that of Amar is incorrect and wrong. Hadrat Ali immediately accepted Islam upon announcement of the Prophethood by the Prophet Muhammad. His age was 8 or 10 years at that time. A sane child who enters Islam is a Muslim on his own and his or her being subservient of another person does not affect his faith. Hence, there is not question about the period after the announcement. Even before that, when the drought caught the Quraysh Tribe, the Prophet took away Hadrat Ali for reducing the number of persons who were dependants on Abu Talib. Hadrat Ali grew under observation of the Prophet, the Prophet watched him since childhood, he listened to the Prophet's advices and learned his habits. Hence, Hadrat Ali definitely believed Allah to be the One and remained away from worship of idols since childhood. (28:433–58)

An Ultimate Research: Imamate of Hadrat Ali and Hadrat Abu Bakr Siddiq

Ghayat al-Tahqiq fi Imamat al-Ali wa al-Siddiq (1331)

Question:
Who was appointed as his successor by the Prophet?

Summarized Answer:
A succession may be of two types. (1) It can be partial and limited such that another person is appointed as a deputy, like appointing an individual as the

chief of forces for a battle, the governor of a district, the revenue officer or as the caretaker in absence. There are many examples of such appointments by the Prophet.

(2) It can be complete for a successor. The Prophet did not announce any caliph, otherwise the Companions did not have consultation about it. Hadrat Ali was asked during his rule about the caliphate as to whether it was from the Prophet or the opinion of people (the Companions). Hadrat Ali replied that it was from the opinion of the Companions, and that the Prophet did not announced any position for him (Hadrat Ali). The Prophet in the terminal desease ordered that the congregational prayer would be led by Hadrat Abu Bakr. The Companions selected Hadrat Abu Bakr as the caliph. (28:469–89)

The Pure Sweet Water:
Hadrat Abu Bakr's highest status after the Prophets

Al-Zulal al-Anqa min Bahr-i Sabqat al-Atqa (1301)

Summary:
Our Allah has commanded:

> O people! I have created you from a man and a woman and divided you into lineages and tribes for identification; no doubt, the more respectable among you in the court of Allah is one who has more *taqwa* (the quality of being pious); Allah certainly knows and is aware.

By this, Allah the Exalted has rebutted the practice of the Dark Ages (*Jahiliyyah*) whereby people had pride over ancestors and were used to judge others for their lineage. In sum, this verse negates the pride over lineage and insists that respect in the court of Allah is proportionate to the *taqwa* of an individual. Therefore, one who has no *taqwa* has no respect in the court of Allah. The absence of *taqwa* is only for an infidel because every Muslim is free from the biggest of the sins, that is, infidelity and polytheism (*shirk*). One who has more *taqwa* is more respectable. Allah has also ordered:

> And, one who has the most *taqwa* would be kept far away (from the Hellfire) very soon. He spends his wealth for increasing the purity. And no one has favored him that he should return. He only wants to please his Allah the Exalted. And he would be pleased very soon.

The authors of the Quranic exegeses (*Tafasir*) from Ahl-i Sunnah have consensus that this verse was revealed about Hadrat Abu Bakr and the words "one who has the most *taqwa*" are for him. He freed seven slaves after buying them while they were punished by their masters for converting to Islam. Hadrat Bilal was among those slaves. It is stated in *Maalim al-Tanzil* that upon Hadrat Abu Bakr's buying Hadrat Bilal from his owner and

freeing him, some polytheists said that Abu Bakr did so to return a favor to Bilal, therefore, this view was responded with the words "no one has favored him that he should return" in the verse. Hadrat Abu Bakr's father had said to him that he buys and frees weak slaves and he should buy and free strong slaves who could guard him and protect him in battles. To this, Hadrat Abu Bakr replied that his only objective was to please Allah and this was pointed with words, "He only wants to please his Allah the Exalted." (28:491–684)

Chapter on Prosody (*Uroz*) and Rhyme (*Qawafi*)

Bahr-i salim or *bahr-i mazahaf masba*

Question: from Munshi Ijaz Ahmad Qaysar Muradabadi (Bareilly), 5 Rajab 1335H.

Isi par aap ko Qaysar Musalmani ka dawa hay
Kabhi yad-i Khuda kar layn, kabhi zikr-i butan kar layn

Is this *bahr-i salim* or *bahr-i mazahaf masba*? What is the difference between *kar layn* and *karen*? What would be Persian translation of *kar layn*?

Summarized Answer:
It is *masman salim*. *Non* of *layn* would not be included in *taqti* according to the rule, therefore, it is not *masba*. Yes, one line is *masba*:

Asiran-i qafas ka dam ghuta jata hay ay sayyad

Where an individual does an act for himself or another person, it would be called *karna*, and where the purpose is to achieve the objective for himself, it would be called *kar layna*, even if to the extent of freeing himself from it. For example, I have completed my talk as compared to I caused

completion of the talk, where the impact is intended for another person, whether positive or negative. Likewise, I have married and I have caused the marriage, hurting (my) head or causing hurt to head.

This short formation cannot be translated into Persian. (29:56–8)

Chapter on Learning and Education

Teaching of issues related to adults and translation of contents

Selected Question: from Munshi Mahmod Ali (Meerut), 29 Rabi al-Akhir 1336H.
(1) In this era of widespread ignorance, is it disallowed to publicly express the translation of matters related to adults, like menstruation, post-natal bleeding, sex, divorce, proof of paternity etcetera, from the Quran, hadiths and legal texts?

Answer:
(1) It is against the sanctity of the Quran to mention the Quran in such a question. Allah the Exalted and the Prophet have informed us about right and wrong and advantage and disadvantage of our every need. Just like they have taught us prayer and fasting, they have also taught us about sex and *istinja* (cleaning after defecation). However, the style of expressing the matters related to adults changes the description.

A particular matter may be expressed in a manner that a virgin may be educated about it whereas a civilized man cannot teach it even to males if it is expressed in a shameful manner. This is especially true for translation because it involves expression of the style, therefore, it is very important to keep the dignity and decency and use words that are the most suitable. Some

deviant persons have not taken care of this while translating the holy Quran resulting in violation of its sanctity.

In sum, expression changes a particular talk from respectable to insult. The claim that one has only translated the text cannot be an excuse where the style of expression is unreasonable. (29:60–61)

Chapter on Speaking

Transfer of ownership by words or action

Question:
Does the usage of a place as masjid or Eidgah (place to offer Eid prayer) results in cessation of the ownership of the owner; or does the ownership ceases upon the owner saying, "I have made it masjid"?

"Where a person constructs a masjid, his ownership would not cease until he constructs a separate pathway for it, seperates it from his ownership and permits masses to offer prayers in it."

Answer:
The first statement is from *Dur* and it means that the usage of a place as masjid or Eidgah results in cessation of the ownership of the owner, and the ownership ceases upon the owner saying that he has made it masjid. The presence of both the situations together is not required. After this statement, it is stated in *Dur*, "It does not mean that it would not cease the ownership because you have come to know that ownership ceases merely by its usage as a place for offering prayer."

The second statement is from *Hidayah*. According to Imam Abu Hanifa and Imam Muhammad, one prayer after the permission is required for this, whereas Imam Abu Yusuf has said that his oral permission that he has made

it masjid would be sufficient. It is stated in *Hidayah* that Imam Abu Yusuf has said that the ownership would cease when the person states that he has made that place a masjid. Fatwa on this matter is according to the view of Imam Abu Yusuf which is that one of these two is sufficient and it is not necessary that oral words and action occurs concurrently. It is stated in *Rad*, "It is stated in *Durar al-Muntaqa* that the view of Imam Abu Yusuf has been preferred in *Tanwir*, *Dur* and *Waqayah*, and the superiority of his views in matters related to *waqf* and *qada* is known." And Allah the Exalted knows better. (29:66–7)

Chapter on Speech and Propagation

Conditions for an orator

Summarized Question: from Hakim Siraj al-Din Ahmad (Sasaram), 17 Shawal 1335H.
Deobandi orators of Saharanpur, Nanota and Illahbad present citations to support construction and safety of madarasas and masjids. What do ulema say about them?

Summarized Answer:
The first condition to become an orator is that he must be a Muslim. People having faith like Deobandis are not Muslims and listening to their speech is prohibited. Making them orator intentionally is infidelity. The ulema of Makkah and Medina have stated, "One who doubts their infidelity or *adhab* (divine punishment) is an infidel." This also applies to the *Ghayr-i Muqallid* Wahhabis because all of them are brothers of devils.

The second condition is that the orator must be a Sunni. It is prohibited to make a non-Sunni an orator even if he delivers a good speech. The Prophet has commanded, "One who respects a deviant (*bad-madhab*) is certainly helping in destructing Islam."

The third condition is that the orator must be one among ulema because it is not permissible for an ignorant person to deliver a speech. It is

stated in a hadith, "People would make ignorant persons their masters, and when questions were asked, those ignorant persons would reply about issues related to the Sharia without knowledge and, thus, they would become deviant and cause others to become deviant."

The fourth condition is that the orator must not be guilty of misconduct (*fasiq*). It is stated in *Tabayyan al-Haqaiq* and other texts, "The reason is that preferring him for leading congregational prayer is an instance of respect whereas it is obligatory for them (the Muslims) to insult him, according to the Sharia."

Where all the four conditions are present, masses would not be allowed to intervene in the speech as the orator would take care of the needs of the Sharia. Yes, where there is any specific need and the orator does not know, they must inform the orator about it in advance. (29:70–2)

Chapter on Animal Sciences

Origin of animals

Question:
Who are the ancestors of dog and all other animals?

Answer:
Every animal born from respective female is among descendants of the first animal of that breed which was created by Allah the Exalted. For example, all horses are the descendats of the first horse created by Allah from mud and water. This also applies to dog and other animals. (29:73)

Chapter on Human Anatomy

Two hearts in an individual

Question: from Molvi Nawab Sultan Ahmad Khan, 29 Moharam 1325H. Zayd says that recently there are reports about two individuals each having two hearts. Physicians have examined them. Bakr has the view that an individual cannot have two hearts because Allah the Exalted has commanded, "Allah has not created two hearts in any man." On this, Khalid says that Allah has also commanded, "Allah is one who makes your bodies in mother's womb as Allah likes." Therefore, the situation is a rare creation of Allah, like a person also exists who has his heart on the right side. Such abnormal childs are sometimes born to human and animals. What are he meanings of these verses of the Quran?

Summarized Answer:
A heart is an organ that is the king of the body and place of mind, wisdom, intention, objective, acceptance and rejection. One individual cannot have two hearts. A state cannot have two kings. In the quoted verse, man is stated in general and means rejection so it applies generally, that is, Allah has not created two hearts of anyone. The Prophet has informed, "Listen! Body has an organ; if that organ is good, entire body would remain good; if that organ is bad, entire body would be bad; and you should know that the organ is

heart." If a person has two hearts and one of these goes bad and the other remains good, it would be necessary that entire body be good and bad at the same time, and this is impossible. (29:76–8)

Chapter on Letters and Numbers

Numerical rebuttal of a Rafdi's analogy

Question: from Qadi Fadal Ahmad Ludhianvi (Ludhiana), 22 Safar 1339H. What do ulema say in the following matter? A Rafdi (Shiite) has said that the numerical sum of the verse of the Quran, "No doubt, I would take revenge from criminals," is 1202 and the same is the sum of the names "Abu Bakr Uthman."

SummarizedAnswer:
Such absurd and baseless doubts are the bases of the faith of the Rafdis, Allah's curse on them.

Firstly, numerical sum of every verse related to divine punishment may be matched with that of the names of pious people. Likewise, those of verse related to divine reward may be matched with that of the names of infidels. The reason is that names have wide capacity.

Secondly, three sons of Hadrat Ali had names: Abu Bakr, Umar and Uthman.

Thirdly, the Rafdi has wrongly calculated the numerical sum because *alif* is not part of the name of Hadrat Uthman. Therefore, the correct sum would be 1201. However, (1) the numerical sum of the name Ibn Sina Rafda is 1202, (7) Allah has informed, "And those who believe in Allah and the

Prophets, they would be *siddiq* and *shahid* in the court of Allah, and they would have their share of the reward and the divine light." The numerical sum of this verse is 3016 and this is also the sum of the names of *Ashra-i Mubashshira* (the ten companions for whom the reward of the Heaven was announced by the Prophet). And Allah the Exalted knows better. (29:80–3)

Chapter on Rights of People

Types of breaches in adultery

Question: from Nazir Ahmad (Kohna), 23 Shaban 1334H.
If a man has sexual intercourse with wife of another man, would his apology to her husband be acceptable or he would also be required to repent? If it is sufficient to repent, my question would be that rights of people are not forgiven except by the individual who holds the right, is not it one of the rights of people? Reply and be rewarded.

Answer:
A woman who has a husband or father or brother who are guardians who feel insulted by this act, for example where they are 10, then the intercourse without her consent would breach of 12 rights. One would be of Allah the Exalted, another would be of that woman, then that of her husband and so on for rest of them. Until all of them grant pardon, he would not be considered as forgiven, provided they have information about it. Where it takes place with her consent, then breach would be of 11 rights. One would be that of Allah and the rest would be of those 10 persons. The woman would have no right since she agreed to the act. Marriage is not annulled by adultery of woman, unless it takes place by father or son of her husband in which case marriage contract becomes vitiated and she would become

prohibited forever for her husband. It would be mandatory for her husband to leave her and until he does so she would not be entitled to marry again. And Allah the Exalted knows better. (29:84–5)

Chapter on Linguistics

Loanwords from Arabic language with modified meaning

Question: from Molvi Muhammad Asif (Kanpur), 14 Ramadan 1336H. Please inform at to whether the meaning of 'wise' for words *shakil* and *aqil* is correct or incorrect. I had sent the following couplet by Zoq to Late Jalal Lukhnawi. He replied that both the words, *shakil* and *aqil*, are incorrect.

Nur mani hay ba-har shakal natija uska
Allah Allah ray zahay shakal sayhanshah shakil
Danish amoz ho gar tarbiyat am teri
Bayd majnon ko bana day abhi insan aqil

It is stated in *Ghayath*, "*Aqil* (with *zabar* on *ayn* and *zer* below *qaf*) means elder, very wise and tie used for camel's feet; and it is also the name of Abu Talib's son who was considered as more intelligent among the Quraysh." Jalal replied:

> The use of the words *shakil* and *aqil* to mean 'wise' by Zoq may be acceptable to you but not to me. The reason is that *shakil* and *aqil* with the meaning of 'wise' are neither mentioned in any authentic dictionary, like *Surah* or *Qamos*, nor have these been found in writings of senior poets. How could I accept then? The author of *Ghayath* has stated these words

to mean 'wise' but do any of dictionaries used as the sources have this meaning of these words? You should consider this. Humble man, Jalal.

Summarized Answer:
Hundreds of Arabic words are part of Urdu language with modified meanings. Therefore, searching that meaning in *Qamos* is absurdity and the experts of Urdu language should be consulted for it. Zoq was an established authority of Urdu language. The person raising objection has *takhallus* (poetic sufix) 'Jalal' which itself is not in dictionary with this meaning. Jalal is 'anger' in Urdu language and not in Arabic language. A compiled list of such words may result into a booklet. *Shakil* and *aqil* are also among such words. (29:86–7)

Chapter on Interpretation of Dreams

Types of dreams

Question: from Imam of Masjid Shukar Allah (Kanpur), 13 Rabi al-Akhir What is a dream?

Answer:
Dreams are of four types.

(1) An intuition triggered by the body which results from the thoughts prevalent in the heart throughout the day. When he/she sleeps and senses are suspended, a similar world would unhide over him/her according to his/her capacity, and images of the same thoughts would appear. Such a dream is unclear and meaningless. This also includes those resulting from effect of some biological condition resulting in appearance of related things, for example, he/she would see bile fire or mucus water.

(2) A dream resulting from intervention of the Devil. This is often horrible. The Devil terrifies or plays with him/her in the dream. It has been commanded to avoid telling such a dream to anyone since it may result in harm. Upon having such a dream, he/she should spit in the direction of his/her left side and recite *tawuz*. It is better for him/her to ablute and offer two *rakah* of supererogatory prayer.

(3) A dream resulting from intervention of an angel. This reveals hidden knowledge of present or future events, but mostely in the short or long veil and thus requiring an interpretation.

(4) A dream resulting from direct intervention of Allah the Exalted. This is clear and obvious and does not require an interpretation. And Allah the Exalted knows better. (29:88–9)

Chapter on *Ijarah*

Failure to offer the agreed service

Question: from (Memon Masjid, Gari Khata, Arambagh, Karachi), 19 Rabi al-Akhir 1336H.
What should be the result of the failire of a person who was selected for a task and who remains unable to complete it? Reply and be rewarded.

Answer:
A thousand situations are possible in such cases and such an unclear question cannot be answered. What was the task? How was he selected? Why did he fail? If he was selected for a task which was optional for him, how can he be blamed? If the task was mandatory for him, it would be an act of sin for him if he does not carry it out. If the task was prohibited one, it would be very good if he has not carried it out. And Allah the Exalted knows better. (29:90)

Chapter on Faith and *Kalam*

The Strictures by the Wrathful:
On refuting the belief that Allah has a body

Qawara al-Qahar ala al-Mujassimat al-Fujjar (1318)
also known as
Darb-i Qahari (1318) (*An Overpowering Hit*)

Summary:
The beliefs of Ahl-i Sunnah about the purity of Allah include the following. (1) Allah is free from every defect (*ayb*) and fault (*nuqs*). (2) Everyone is dependant on Allah, and Allah is not dependant on anything, in any manner and in any matter. (3) Allah is free of any resemblance with any creature. There are large number of beliefs as regards purity of Allah. The evidence in support of these are the verses of the Quran that state praise, holiness, purity and self-sufficiency of Allah.

Allah has revealed the Quran for guiding and testing the mankind; "(Allah) lets numerous to become deviant, and guides numerous others." The major reason of this deviance and guidance comes from the two types of verses in the Quran. *Muhkimat:* Meanings of these are clear, like the verses in praise and purity of Allah as referred above. *Mutashabihat:* Meaning of

these are unknown, like *huruf-i muqattaat*, or unclear, like meaning which is impossible, like the verse "The most Kind (Allah) does *istawa* on the Tablet". Those who had deviant beliefs found these (*Mutashabihat*) in line with their belief and used these to deviate others and spread disputes as regards Islam, like they told people about the verse that Allah is sitting, riding or staying on the Tablet and forgot the meaning of the verses that are *Muhkimat*, whereas the word stated in the Quran is *istawa* and that does not mean sitting, riding or staying rather these meanings are mere understanding of them (the Wahhabis). (29:120–40)

An Ice for the Chest: On belief in the fate

Thalj al-Sadr li Iman al-Qadr (1325)

Question: from Sayyid Muzafar Husayn (Awadh), 28 Moharam 1325H.
In the Quran, it is stated that efforts to invite certain infidels towards Islam must not be in excess as acceptance of Islam is not in their fate and they would not become Muslims; and numerous verses of the Quran exist as proof of divine acts. How can anything happen without the will of Allah then? How can a human act against the will of Allah, and if Allah had the will before the birth of a human whereby that human would be an infidel, then how could that human be a Muslim? The words of the Quran "(Allah) guides whosoever Allah wishes" clearly mean that Allah does whatever Allah wants. Thus, human is helpless so why should human be accountable?

Summarized Answer:
Allah the Exalted created human beings, gave ears, eyes, nose, hands, legs etcetera as tools and organs and taught us the methods for using these. Allah made these subservient to human beings so that they benefit from these and avoid harms. Allah blessed them with minds that raised the status of human among creatures, and gave understanding of these acts to minds because good and bad or advantage or disadvantage was not known to senses. Allah sent the Prophets and revealed the holy books to teach the minds. The right path and the wrong ways became clear.

Yes, Allah has given the authority to them to have intention for activities and guide/control their organs and Allah would accordingly turn the organ(s) in line with the intention, like Allah has created the ability in hand to spread, retract, raise up and down; Allah created sword and gave it edge and the ability of cutting in the edge; Allah created the movements of raising, touching, attacking with sword; Allah gave to the mind the ability to identify friends and enemy, knowing the bad and the good; Allah gave us the Sharia to inform us about the rightful killing and the wrongful one.

Zayd had the intention with the power given by Allah to pick the sword created by Allah with the hand created by Allah. The sword raised. Zayd intended to move the sword down towards body of Walid for cutting him. The sword moved down and touched the body of Walid. Hence, all the acts and things needed for this attack were created and given by Allah, the attack itself was with the will of Allah, and the resulting cut would also be created by Allah. If Allah had not wanted, Zayd and even all creature could neither raise the sword nor could they move it. They could not move the sword down. If Allah had not wanted, the sword could neither give a cut nor even could it create a hairline on the skin of Walid. There are real instances of people remaing unharmed in history. Therefore, whatever happened it was happened with the will of Allah. Zayd only had the intention to kill Walid and control his organs accordingly. If Walid was liable according to the Sharia to be killed, Zayd would not be guilty. If the killing was wrongful, Zayd would certainly be liable to punishment because he had an intention in violation of the Sharia and used his organs for an act that was cause of anger of Allah according to the holy books. (29:287–303)

The Beautification:
On the command for effort in accomplishing a purpose

Al-Tahbir bi Bab al-Tadbir (1305)

Question: from Molvi Allah Yar Khan, 20 Dhilhajjah 1305H.
Khalid has the belief that whatever good or bad happens it happens for the fate (*taqdir*) from Allah and considers the efforts (*tadbir*) of human beings in the matters related to this life and the Hereafter as recommended acts and good. On Khalid's belief of efforts being recommended acts, Walid consider Khalid an infidel and has stopped greetings (say *salam* to) him considering him an infidel. Walid says that effort is nothing and is useless, people who arrange for education of their children are idiots because education is an effort. Is Khalid an infidel as said by Walid, or not? If not, what would be the divine punishment and worldly punishment for Walid? Reply and be rewarded.

Summarized Answer:
No doubt, Khalid is truthful and his belief is according to the creed of Ahl-i Sunnah. Everything happens according to the fate from Allah. Allah has announced, "Every minor and major thing has been written," "Every thing has been counted in a bright book," and "There is nothing dry or wet which is not written in a bright book." There are numerous other verses and hadiths on this matter. However, effort is not useless at all. This world is based on sources. Allah the Exalted, with great wisdom, has aligned the resources in it with the sources. As ignorance of fate and relying on effort a

habit of infidels, so also calling efforts as useless would be an act of a deviant person or an insane as this would result in avoiding the teachings of numerous verses of the Quran and hadiths as well as raising objection and blame over the Prophets, the Companions, imams and *awliya*. The Prophets had the most belief in Allah and fate, however, they always put in effort, guided people for efforts and worked to earned a living. (29:303–27)

The Faith of the Friends: About Allah, the Prophet, family and companions

Aitiqad al-Ahbab fi al-Jamil wa al-Mustafa wa al-Al wa al-Ashab (1298)

Summary:
(1) Allah is one. There is not diety other than Allah. Allah is the only creator. Allah is free from body. (2) Allah has countless blessings over the Prophet Muhammad and has given authority to him. The Prophet met and saw Allah. (3) No other creature can reach the highest status of the Prophets in the court of Allah. (4) After the Prophets, the status of the Angels is next. (5) The Companions of the Prophet Muhammad have the next highest status. Among them the Prophet's daughter, Hadrat Fatima, and her two sons, Hadrat Imam Hasan and Hadrat Imam Husayn, and the Prophet's wives have unique status. (6) Among the Companions, the highest status is that of the ten companions to whom the Prophet told about their entrance in the Heaven (*Ashra-i Mubashira*). Among them, Hadrat Abu Bakr, Hadrat Umar, Hadrat Uthman and Hadrat Ali respectively have the highest status in sequence. (7) It is prohibited to indulge in any adverse view over the disputes that occurred among some companions. (8) Hadrat Abu Bakr was the rightful successor of the Prophet. (9) Ahl-i Sunnah believe on all the necessities of the Islamic faith. (10) The Sharia and the *Tariqah* (Sufism) are not two different ways. The Sharia is the base and takes precedence. (29:339–91)

A Spear of the Subduer: On debate following books on Islamic faith

Ramah al-Qahar ala Kufr al-Kufar (1328)

Summary:
This booklet is written as a prologue to the book *The Purity of the Belief*. The author describes the sequence of events following the books on infidelity of the Deobandi Wahhabis and the resulting defense strategy adopted by them, including the fake references to fabricated books refered as ulema

and seniors of the author. The author discusses some principles of faith to elaborate upon his fatwa on the knowledge of the Unseen. With these descriptions, this booklet narrates instances of the opponent's effort to spread misinformation in their favor. The book cites such an effort happening to Sayyid Husayn Hayder Wasti in Lucknow, it reproduces some contents of the letter written by him to the author, the author's book titled *The Purity of the Belief* to clarify, and two letters from him to the author expressing satisfaction over the matter. (29:411–31)

The Purity of the Belief: On clarifying the Prophet's knowledge of the Unseen

Khalis al-Aytiqad (1328)

Summary:
This book is written in reply to a letter from Sayyid Husayn Hayder Wasti on the subject. The author's reply comprises of various parts. (1) The efforts of the Wahhabis to oppose the Prophet's knowdge of the Unseen and their effort to spread misinformation against the books of the author on this subject. (2) The evidence of Allah giving knowledge of the Unseen to human and the interpretation of the verses. (3) The ulema have described the difference between the personal and gifteed knowledge of the Unseen. (4) Short replies on the faith about the Prophet's knowledge of the Unseen. (5) The boundaries of the knowledge of the Unseen and the view of the Sufis. The author has written 120 arguments in these sections in support of his fatwa and concludes that the wrong view of the Wahhabis on the subject would result in the opposition of ulema and Sufis who are regarded as seniors and authority in religion by the Wahhabis too. (29:433–83)

The Revelation to the Chosen One: The vast knowledge of Prophet Muhammad

Anba al-Mustafa bi Hal-i Sir wa Akhfa (1318)

Summarized Question: from some Sunni ulema (Delhi), 21 Rabi al-Akhir 1318H.
Zayd claims that Allah also gave the knowledge of the Unseen to the Prophet until the ends of times, the Heaven, the Hell and the good and bad of his community (*Ummah*). Bakr calls this belief of Zayd as infidelity and polytheism. Who is correct?

Summarized Answer:
The statement of Zayd is correct and that of Bakr is incorrect. No doubt, Allah has given the knowledge of everything between the first day till the last day to his most beloved Prophet, Allah's peace and blessings upon him. Allah showed him everything from the East to the West, from the Tablet (*Arsh*) to the Earth (*Farsh*), made him witness of everything of the Earth and the Sky, told him everything that occured since day one to that would ocuur till the last day. Allah has given him knowledge of all this in detail and not summarily. Even this description does not encompass the entire knowledge Allah has given to Prophet Muhammad. Only Allah and the Prophet know the reality of the extent of the knowledge given by Allah to the Prophet. The evidence of this is present in the Quran, the Hadith and the books of ulema. (29:485–510)

Explaining the Fault:
On replying those who attack the Prophetic knowledge

Azahat al-Ayib bi Saif al-Ghayib (1330)

Summarized Question: from a Sunni through Molvi Wasi Ahmad Surti (Saharanpur)
Teachers in the Madarasa at Deoband attack the belief about the Prophet's knowledge of the Unseen during discussions and teaching. Please guide us.

Summarized Answer:
In my books on the subject, I have cited evidence from the Quran in support to prove that the Quran revealed to the Prophet over the period of 23 years gradually and Allah has given knowledge of everything from day one to the last day. It is an established principle that even a hadith with good *sanad* (chain of transmission) cannot be accepted in opposition of the clear verses of the Quran.

Those who oppose the verses presented by me and claim that knowledge of the Unseen has not been given by Allah to the Prophet would have to prove their view as follows. (1) The verse must be clear evidence of the argument or the hadith must be similarly popular. (2) The reported event must be from an era after the revelation of the Quran has completed. (3) The argument must direcly prove that the Prophet did not have the knowledge of the Unseen. (4) The opposition stated by the argument must be clear expression because absence of expression is sometime intentional. (5) The reported event must be between the day one to the last day, that is, whatever is written in the *Loh-i mahfuz* (the divine writing of all events) because the claim pertains to this and infinite times are excluded from the claim. The Wahhabis or anyone else can never present an evidence that complies with all of these five conditions. (29:511–40)

The Caution Lights: In support of chanting the words *Ya-Rasul-Allah*

Anwar al-Intibah fi Hal-i Nida-i Ya-Rasul-Allah (1304)

Summarized Question:
Zayd is a Muslim. He chants the words *Ya-Rasul-Allah* after daily prayers etcetera. What do you say about people who call him an infidel and polytheist?

Summarized Answer:
The said words chanted by Zayd are certainly permissible and only an ignorant or deviant person can have objection over these. Ulema have discussed this in numerous books in previous centuries. A hadith with good *sanad*, as reported by Imam Nisai, Imam Timidhi, Ibn Majah, Imam Hakim, Imam and Abu al-Qasim Tibrani from Hadrat Uthman Ibn Hanif, Allah be please with him, states that the Prophet tought to a blind man the following pray to be offered after daily prayers:

> O Allah! I am asking you and focusing my attention towards you through the *wasila* (channel) of your Prophet Muhammad who is the Prophet of kindness; O Prophet of Allah! I ask Allah for fulfilment of my need through your *wasila* so that my need is granted; O Allah! Accept his intercession (*shifaah*) in my favor.

The author then cites numerous statements from the books of imams and earlier ulema in support of his fatwa. (29:549–69)

The Recitation of Forty Hadiths: On intercession by the Prophet Muhammad

Asma al-Arbayin fi Shafaat-i Sayyid al-Mahbobin (1305)

Question:
Which hadith is an evidence of the intercession by the Prophet?

Summarized Answer:
Questions like this are amazing, and reflect unexpected confusion of Muslims especially Sunnis on such an obvious belief. This is a sign that the world is reaching near the Day of Judgement. Dozens of the Companions, hundreds of their students and thousands of the ulema of hadith have reported such hadiths. Every single Sunni, even women, children and uneducated farmers, are aware of this belief. I have written a detailed book on this but prefer to reproduce 40 hadiths here preceded by some verses from the noble Quran.

Allah the Exalted has informed, "Soon, your Lord will send you to the place for the praiseworthy (*maqam-i mahmud*)." The Prophet was asked about the place and the Prophet replied that it was the intercession, as reported in a hadith. In another verse, Allah has informed, "Soon, your Lord would give you so much that you would be pleased." Upon revelation of this verse, the Prophet said, "I would not be pleased until even one individual from my Ummah remains unfree from the Hell," as reported in *Musnad al-Firdos* from Hadrat Ali, Allah be pleased with him.

It is reported by Imam Ahmad in *Musnad* from Hadrat Abd-Allah Ibn Umar and Ibn Majah from Hadrat Abu Musa Ashari that the Prophet said:

> Allah give me option to either get the (right of) intercession or half of my Ummah being granted the Heaven. I chose the intercession because it extends till the end and would be more beneficial. Do you think the intercession would be for (the benefit of) the pious? No. It would rather be for (the benefit of) Muslims wo commit sins, are engaged in sin and are more sinful.

It is reported by Ibn Adi from the Prophet's wife Hadrat Umm-i Salmah that the Prophet said, "My right of intercession would be for those among my Ummah who have destroyed themselves (through their sins)."

Hadrat Abu Dawud, Imam Tirmidhi, Ibn Habban, Imam Hakim and Imam Bayhiqi have reported from Hadrat Anas Ibn Malik, Ibn Majah, Ibn Habban and Imam Hakim from Hadrat Jabir Ibn Abd-Allah, Imam Tabarani in *Maujam al-Kabir* from Hadrat Abd Allah Ibn Abbas, and Khatib Baghdadi from Hadrat Abd Allah Ibn Umar and Hadrat Kaab Ibn Ajrah that the Prophet, said, "My right of intercession would be for (the benefit) of those among my Ummah who commit major sins."

Abu Bakr Ahmad Ibn Ali Baghdadi reports from Hadrat Abu Dardah that the Prophet said, "My right of intercession would be for sinful people of my Ummah."

Imam Tabarani and Imam Bayhiqi report from Hadrat Barida, and in *Maujam al-Awsat* from Hadrat Anas that the Prophet said, "I would intercede for more people on the Day of Judgement than the number of trees, rocks and stones on the entire Earth." (29:571–85)

The Twenty Points: On the distinctive beliefs of Sunnis

Amur-i Ashrayin dar Imtiyaz-i Aqayid-i Sunniyain (1318)

Summarized Question: Hafiz Muhammad Uthman (Sambhar, Jaipur), Ramadan 1318H.
Can you testify in favor of Molvi Ahmad Ali Shah Mirzapuri's faith?

Summarized Answer:
I only have a basic introduction and do not know details about him. The testimony is a significant matter. I am sending twenty points and (would testify) if he endorses these with words that show agreement with open heart and places his stamp on these.

(1) Sayyid Ahmad Khan Aligarhi and his followers are infidels.

(2) The Rafdis who believe that the Quran is deficient and declare Hadrat Ali or any other person, who is not among Prophets, as *afdal* than the earlier Prophets, are infidels and apostates.

(3) The Rafdis who are *tibrai* (say bad in respect of the Companions) are infidels and there is consensus that they are deviants, followers of illegal innovation and liable to (the punishment of) the Hell.

(4) The one who believes that Hadrat Ali had a higher status than Hadrat Abu Bakr and Hadrat Umar in the court of Allah is deviant and opponent of the Ahl-i Sunnah.

(5) In the Battle of Jamal and Siffin, Hadrat Ali was right. However, the Companions on the other side made an error that was a juristic (*ijtihadi*) error for which it is severly prohibited to condemn any of them. Utterance of any bad word againt any of the Companions would make the person a Rafdi and expel him from the Ahl-i Sunnah.

(6) No one has occupied the designation of *mujtahid* for centuries, and following (*taqlid* of) one of the four law schools is mandatory for everyone who is not a *mujtahid*. The Ghayr-i Muqallids who deny *taqlid* are deviant and have bad faith (*bad-Din*).

(7) For centuries, Ahl-i Sunnah comprise of four schools of law and anyone who does not follow any of these is not among Ahl-i Sunnah and follower of illegal innovation and liable to (the punishment of) the Hell.

(8) The first teacher of the Wahhabis is Abd al-Wahhab Najdi and the second teacher is Ismail Delhvi, the author of *Taqwiyat al-Iman*, and both of them were deviant and had bad faith. (29:613–7)

An Explanation of the Meanings: About the faith of Abu Talib

Sharh al-Matalib fi Mubhas-i Abi Talib (1316)

Summarized Question: from Badaun in 1294H; from Jamat Ahl-i Sunnat (Ahmadabad), 1316H.
What is the belief of Ahl-i Sunnah about Abu Talib?

Summarized Answer:
There is not doubt that Abu Talib always took care and supported the Prophet more than his own children. Abu Talib helped him when others were his enemy and endured the opposition of relatives and friends. He did

not leave any stone unturned in supporting the Prophet. Abu Talib certainly knew that the Prophet was a true Prophet of Allah and that accepting his Prophethood would be rewarded through the Heaven and denying the Prophethood would result in punishment through the Hell. In his last hours, Abu Talib stated as his will that the Banu Hashim clan would receive *falah* (success in this world and the Hereafter) if they admit the Prophethood of Hadrat Muhammad. Abu Talib also wrote poetry in praise of the Prophet.

However, the acts stated above do not prove his faith as Muslim. We wish he had done these acts and said such statement after he had embrased Islam, and in that case his status (*fadal*) would have been higher than Hadrat Abbas and probably even that of Hadrat Hamza. However, the divine decree and predestination was to not admit him as a Muslim for reason known to Allah and his Prophet. (29:655–749)

A Radiant Flame:
On evil of intentional expression of words of infidelity

Bariqat al-Lama fi Su-i min Nutq ba Kufr Taua (1304)

Summary:
Jurists have the view that if a statement comprises infidelity, the person would be declared an infidel. *Mutakallimun* (ulema having expertise in creed science) add that the statement must also be against the consensus of Muslims and necessities of faith (*daruriyat-i din*) and must be his clear expression, that is, the person has said it intentionally and clearly and it must not be an outcome of his statement. Clarity in expression to an extent is also a condition in view of the Jurists, therefore, the point to remember is that the *Mutakallimun* would only declare the person as an infidel if a clearly expressed statement of infidelity is against the necessities of faith and not otherwise, whereas it is sufficient in view of the Jurists that the statement violates any of the definite points of faith (*qatiyyat*).

In the author's book *The Iron Maces*, after proving the reported statements of *Al-Mantiq al-Jadid* as infidelities, the final part was related to the ruling of the Sharia about the author of these. The resulting discussion brought up the question as to whether a person would be declared infidel where he expresses such obvious statement(s) of infidelities against consensus of Muslims, in violation of the necessitites of faith, and without any coercion and expression of hate against such statements. The answer was in affirmative and there were numerous and detailed arguments to support this answer. The author, therefore, wrote this booklet *A Radiant Flame* while he was still completing the book *The Iron Maces*, and the author stated some short excerpts and conclusion from *A Radiant Flame* in *The Iron Maces*. (27:175–83)

Chapter on Interpretation of the Sayings of Masters

Meaning of a stanza written by the author

Question: from Manzor Hasan Qadiri (Bareilly), 12 Ramadan 1338H.
I am reading the collection of your poetry (*The Gardens of the Givings*) and have been unable to understand the meaning of the following stanza?

Farmatay hayn ye dono hayn sardar-i do-jahan
Aey Murtaza! Atiq-o Umar ko khabar na ho

Answer:
This stanza is the translation of a hadith in which the Prophet commands, "Abu Bakr and Umar are the best among people of the periods before and after them and they are better than all of those living on the Earth and the Sky; Ali! do not share this news with them."

Allama Manawi has written the meaning of this hadith in *Taysir sharh Jami al-Saghir* by stating that the Prophet asked Hadrat Ali to avoid telling it to them because the Prophet himself wanted to inform them for making them happier. And Allah the Exalted knows better. (30:83)

Chapter on Recitation of the Quran

Number of times Surah al-Ikhlas to be recited in *tarawih* prayer

Question: from Muhammad Abd al-Kafi (Kanpur), 21 Dhulhijjah 1333H. Is it an improper or a recommended act to recite Surah al-Ikhlas in *tarawih* prayer thrice on the day the recitation of the Quran is completed? Reply and be rewarded.

Answer:
It is a recommended act. It is stated in *Hindiyyah*:

> The recitation of Surah al-Ikhlas thrice (in *tarawih* prayer) towards the completion of the Quranic recitation has been declared by some jurists as a recommended act, so that the loss occurring in recitation by some is made up. However, where the completion of the Quranic recitation occurs in a mandatory prayer, one should recite Surah al-Ikhlas not more than once.

It is stated in *Uqud al-Dariyyah*, "And act is to be according to the act of majority." And Allah the Exalted knows better. (30:94)

Chapter on the Quranic Writing

Spelling of the word '*kalam*'

Summarized Question: from Hafiz Mir Abd al-Jalil (Marehra), 25 Safar 1322H.

The word *kalam* is stated in the Quran at four places. In some copies of the Quran and books of the Quranic writing, the word is written with the letter *alif*. In some other copies of the Quran and books of the Quranic writing, the word is written without the letter *alif*. Also, in some other copies of the Quran and books of the Quranic writing, the word is written at few places without the letter *alif* and at other places without the letter *alif*. What is your view about it?

Summarized Answer:

Imam Aqasi has stated:

> Ghazi Ibn Qays has said, "The words *adhab*, *aqab*, *hisab*, *bayan*, *Ghaffar*, *Jabbar*, *saatah* and *nihar* are stated in copies of the Quran with *alif* in accordance with the spelling of the word." Abu Amar has said, "Similarly, every style related to *faal* or *fial*, or related to *fail* like *zalim*, or one related to *faal* like *khuar*, or related to *falan* like *banyan*, or related to *falan* like *ridwan*; similar rule applies to *miyad*, *miqat*, *mizan* and similar words in

which *alif* is used as extra base; likewise, the one changed with *ya* or *wao*. (This is with short examples).

This blessed statement is comprehensive although there are certain exceptions as the Imam himself has stated at various places in *Maqna*. No doubt, this informs us about a beneficial rule that, other than exceptions, all such words are without *alif*. Therfore, unless it is proved otherwise from some authentic copy, it would be kept as it is because it is the real one and the real in the actual style. (30:95–110)

Chapter on Astronomy, Timings and *Taqwim*

Timings of the Virgo constellation

Question: from Nawab Sultan Ahmad Khan (Biharipur, Bareilly), 7 Shawal 1336H.
What is the timing of the rising of the Virgo constellation of third degree nowadays?

Answer:
Nowadays, the Virgo constellation of third degree rises after 8 AM. The following is the detail:

Day	*Islamic Date*	*Gregorian Date*	*Start Time*			*End Time*		
			Hour	*Minute*	*Second*	*Hour*	*Minute*	*Second*
Thursday	8 Shawal 1336	18 July 1918	8	28	47	8	23	23
Friday	9 Shawal 1336	19 July 1918	8	24	51	8	29	27
Saturday	10 Shawal 1336	20 July 1918	8	20	55	8	25	31

The stated time is as per the Railway Time which is prevalent here in clocks/watches nowadays. (30:122–3)

Chapter about the Most Beloved Prophet

The Light of the Certainty: On our Prophet's high status among the Prophets

Tajalli al-Yaqin bi an Nabiyina Sayyid al-Mursalin (1305)

Question: from Mirza Ghulam Qadir Bayg (Munger), Shawal 1305H.
The Wahhabis in this area have raised a new issue by denying the highest status (*fadal*) of the Last Prophet among the Prophets. The issue is very clear and even a Muslim child knows this. However, the Wahhabis insist that the evidence from the Quran and the Hadith is required. I have tried and have been unable to do so, therefore, I am contacting you for it with the hope that you would reply with evidence from the Quran and the Hadith. Regards

Summarized Answer:
The highest status of the Prophet Muhammad among the Prophets and he being the head of everyone since day one to the end of times is a matter of absolute faith, certainty and according to the consensus. Only a deviant person would oppose this. There are a lot of supporting arguments, many verses of the Quran and large number of hadiths to support this belief.

Covering all of these would require a very lengthy book. I would, therefore, restrict the evidence here to reproducing 10 verses from the Quran and 100 hadiths. This would be done in two parts. The part one would include the verses from the Quran. The part two would include the hadiths and accompany four sections. The section one would include commands of Allah other than the verses of the Quran. The section two would include the statements from the Prophet. The section three would report hadiths in which the Prophet has informed about attributes that give him higher status than other Prophets. The section four would report statements from the Companions. (1) Allah has informed:

> And (O beloved!) you should recall that Allah took the covenant of the Prophets, when Allah said, "Take whatever I gave you from the Book and wisdom (*hikmah*) and afterwards a Messenger would come to you who would confirm what is with you; then you must believe in him and help him." Allah then asked, "(O Prophets!) Do you agree and will you take up this heavy covenant from Allah?" The Prophets replied, "We agree." Allah commanded, "Then bear witness; and I am with you among the witnesses (over this)." Anyone who breaches this covenant would be liable for the misconduct.

(2) In another verse, Allah has stated, "(O beloved!) You have not been sent but as blessing for the worlds." (30:129–264)

The Inclusion in Islam: On Islamic faith of the ancestors of the Prophet

Shumol al-Islam li Usul al-Rasuli al-Kiram (1315)

Question: from Molvi Abd al-Ghaffar (Banglore), 21 Shawal 1315H.
Were the ancestors of the Prophet Muhammad from his parents to the Prophet Adam were Muslims or not? Reply and be rewarded.

Summarized Answer:
Allah has informed, "No doubt, a Muslim slave is better than a (free) polytheist." The Prophet has stated, "I was sent in better era and group of mankind of every era so-long-so that I reached the era in which I was born." This has been reported in *Bukhari* from Hadrat Abu Hurayra. Hadrat Ali has said, "In every era, there have been seven Muslims on the Earth; and if this have not occurred, the Earth and all creature on the Earth had died." Hadrat Abd-Allah Ibn Abbas has said, "After the Prophet Noah, the Earth never has had less than seven pious people; their presence results in prevention from divine punishment of the creature on the Earth." Given all these, where the Earth has had at least seven pious people and the ancestors of the Prophet were always among better people of every era and

an infidel cannot be better than a Muslim slave, the result would be that the ancestors of the Prophet were among those pious people of that era; otherwise, the verse of Quran and the hadith would contradict. This argument has been stated by Imam Jalal al-Din Suyuti.

Allah has informed, "Infidels are certainly impure." The Prophet has said, "Allah transferred me from pure backs of ancestors to pure wombs, and whenever there were two branches (of a lineage), I was always in the better one." Therefore, it is certain that the men and women ancestors of the Prophet were all pure and all had correct belief and everyone of them was *mauhid* (one who believes in one God) because an infidel cannot be pure according to the declaration of the Quran. (30:267–305)

The Preamble to the Faith: On belief about the Prophet and his sanctity

Tamhid-i Iman ba Ayat-i Quran (1326)

Summary:
O beloved Muslims! May Allah the Exalted grants you and me to stay on the right path and grant true love and heartiest respect of Allah's most beloved Prophet, Allah's peace and blessings upon him, and we die in such a condition. Your Lord has commanded in the Quran:

> (O beloved!) No doubt, I have sent you as a witness, informer of good (reward from Allah) and warner (of Allah's anger). So that (O people!) you believe in Allah and the Prophet, respect and honor the Prophet, and worship (Allah) in morning and evening.

O Muslims! Look, your Allah has informed about the three objectives of making the Islam your religion and revelation of the Quran: (1) the belief in Allah and the Prophet, (2) the respect of the Prophet, and (3) the worship of Allah the Exalted.

Look at the sequence of these three points! Belief has been stated at first position, and worship at the last position. In middle of these, honor of the Prophet has been stated in between these two positions.

The reason is that the honor would not benefit without the belief. There are many Christians who have written books and delivered speeches in support of the honor and respect and in defence of the Prophet Muhammad. However, they have no benefit of doing so because do not believe in the Prophethood of our Prophet and thus their dedication is superficial (without the belief). Had they truly respected the Prophet Muhammad, they must have believed him (to be the Last Prophet).

Unless there is true respect of the Prophet in heart, the worship of entire life would be useless and rejected. There are many hermits (yogis) and monks who live their entire lives in solitude, however, their efforts would

not be beneficial because they did not believe in the Prophet. For them, Allah has informed that "their efforts have been wasted" and "they put huge efforts, and their reward would be the fire (of Hell)." (30:307–58)

The Tranquility and the Eminence: On the Prophet's power to save from evil

Al-Aman wa al-Ula li Nati al-Mustafa bi Dafi al-Bala (1311) also titled as *Akmal al-Tamat ala Shirk Sawwa bi al-Umur al-Ammat (1311)*

Summarized Question: from Molvi Karamat Allah (Delhi), 21 Jamadi al-Akhira 1311H.
Zayd who is a Wahhabi says that reciting *Durud-i Taj* and *Dalayl al-Khayrat* is polytheism and illegal innovation because these include contents that state the Prophet as savior from evil and were written several centuries after the era of the Prophet. On the contrary, Amar says that recitation of these cause blessings. Your fatwa is needed on the matter.

Summarized Answer:
This fatwa consists of an introduction (*muqadamah*), two chapters and an epilogue. In the introduction, the author highlights that the statement of Zayd being a Wahhabi is not unusual because the very foundation of the Wahhabism is to target the honor of the Prophet and eliminate the love of the beloved *awliya* from the hearts of Muslims. However, it is amazing that some Sunni Muslims still listen to such dirty statements. There have been many people like Zayd and there would also be in the future. Sunni Muslims must not give attention to such statements. The best response to the people like Zayd is to remain silent in their presence, foget them in their absence and increase the rememberance of the Prophet day and night. This would be sufficient response to the people like Zayd. There is no use of refuting these Wahhabis through the statemetns of imams and ulema because the imams and ulema are nobel for us whereas the Wahhabis considered them as polytheists and illegal innovators.

The only acceptable reply to these Wahhabis would probably be through the evidence in support (of recitation as stated in the question) from the books of the Wahhabi leader (Ismail Delhwi) and his ancestors and seniors. The author then reproduces the statements from the books of Ismail Delhwi, Shah Wali Allah Delhwi and Shah Abd al-Aziz Delhwi.

The first chapter has two sections. In the first section, the author presents six verses from the Quran that indicate the blessings of the Prophet and elimination of evil with his reference. In the second section, the author adds 60 hadiths in support of his fatwa.

The second chapter comprises of two sections. In the first section, the author quotes 40 verses from the Quran and five verses from earlier holy books to prove that the Prophet is certainly the cause of blessings of Allah. In the second section, the author reproduces 240 hadiths. (30:359–635)

The Aim of the Wise: On the Legislative Authority of the Prophet

Munyat al-Labib an al-Tashri Biyad al-Habib (1311)

Summary:
In the second chapter of book *The Tranquility and the Eminence*, the author, while discussing the authority of the Prophet, introduced a sub-topic about the Prophetic authority about the Sharia and separately titled it as *The Aim of the Wise* about the legislative authority of the beloved (Prophet) to be a separate booklet. The book states 24 hadiths wherein the Prophet declared Medina as a holy sanctuary (*Haram*).

The Prophet said, "O Lord! No doubt, the Prophet Abraham made Makkah a holy sanctuary, and I made what is between the two rocky places of Medina a holy sanctuary." Hadrat Abu Hurayrah has reported, "The entire Medina was declared by the Prophet as holy sanctuary and 12 miles of surroundings were taken into it by him."

The author further cites three verses from the Quran and dozens of hadiths to prove that the Prophet was given legislative authority by Allah the Exalted. (30:500–66)

The Source of the Wish: On the Prophet's visit to the Tablet and the Sighting

Manba al-Muniyat bi Wasul al-Habib ila al-Arsh wa al-Rawyat (1320)

Question:
Is there any hadith that proves the Prophet's sighting Allah the Exalted on the Night of Ascension (*Shab-i Miraj*)? Reply and be rewarded.

Summarized Answer:
The author states *marfu* hadiths to begin the reply. Imam Ahmad has reported from Hadrat Abd-Allah Ibn Abbas, Allah be pleased with him, in *Musnad*, "The Prophet said that he sighted his Lord." Imam Jalal al-Din Suyuti has stated in *Khasais al-Kubra* and Allama Abd al-Rauf Manawi in *Taysir sharh Jami al-Saghir*, "This hadith has good *sanad*."

Ibn Asakir has reported from Hadrat Jabir Ibn Abd-Allah that the Prophet said, "No doubt, Allah blessed the Prophet Musa with talk, and Allah blessed me with the divine sighting, intercession and the *kauthar* (a canal from the Heaven)."

He (Ibn Asakir) has also reported from Hadrat Abd-Allah Ibn Masud that the Prophet said, "Allah told me that Allah gave friendship to the Prophet Abraham, Allah blessed the Prophet Musa with talk and gave me the sighting (*kafah*). It is stated in *Majma al-Bahar* that *kafah* means sighting without any veil or messenger.

Ibn Mardoya has reported from Hadrat Asma Bint Abu Bakr, "I heard that the Prophet was describing *Sidrat al-Muntaha* and I asked 'O Prophet! What did you see besides that?' The Prophet replied 'I saw my Lord besides that.'" (30:637–56)

The Blessings of the Inherent Purity: The Prophet being made of the divine light

Salat al-Safa fi Nur al-Mustafa (1329)

Question: from Molvi Nur al-Din Ahmad (Goliar), 28 Dhiqaddah 1317H. Which and what type of hadith proves that the Prophet Muhammad was created by the *Nur* (divine light) of Allah the Exalted and the rest of the creations+ were made from his *Nur*? Reply and be rewarded.

Summarized Answer:
Imam Abd al-Razaq, who is a student of Imam Malik, a teacher of Imam Ahmad Ibn Hanbal and a teacher of the teacher of Imam Bukhari and Imam Muslim, has reported from Hadrat Jabir Ibn Abd-5Allah, Allah be pleased with him in *Musannaf*:

> He says that he asked, "O Prophet of Allah! Please tell me as to what was created by Allah before anything else." The Prophet replied as follows. O Jabir! No doubt, Allah certainly created, from Allah's *Nur*, the *Nur* of your prophet before any other creation. The *Nur* moved around where Allah wanted it to. Even the Book (*Loh*), the Pen (*Qalam*), the Heaven, the Hell, angles, the Sky, the Earth, the Sun, the Moon, jinns and human had not been created. When Allah wanted to create other creatures, Allah put the *Nur* in four parts. The Pen was created from the first. The Book was created from the second. The Tablet (*Arsh*) was created from the third. The fourth part had four further parts. The angels holding the Tablet were created from the first. The Chair (*Kursi*) was created from the second. Rest of the angels were created from the third. The fourth part had four further parts. The sky was created from the first part. The Earth was created from the second. The Heaven and the Hell were created from the third. The fourth part had four further parts…. (and so on until the end of the hadith).

This hadith has also been reported by Imam Bayhiqi in *Dalayl al-Nabuwat*. Senior imams, like Imam Qistalani in *Mawahib*, Imam Ibn Hajr in *Afdal al-Qura* and Allama Fasi in *Matala al-Musarrat*, Allama Zarqani in *Sharh Mawahib*, Allama Dayal Bakri in *Khamis*, Shaykh Abd al-Haq in *Madarij* and others have cited this hadith and relied upon it. In sum, the hadith is accepted by our ulema and is authentic. (30:657–94)

The Absence of the Shadow: On research about shadow of the Prophet's body

Nafi al-Fay am min Astinar bi Nurihi Kul-i Shay (1296)

Question:
Did the Prophet's body cast a shadow or not? Reply and be rewarded.

Summarized Answer:
Certainly, the Prophet did not have shadow and this is evident from hadiths and the statements of ulema. Senior imams and ulema, like Hafiz Razayn Misri, Allama Ibn Saba, Imam Qadi Iyad, Imam Muhammad Balkhi, Allama Husayn Ibn Muhammad, Imam al-Suyuti, Imam Shams al-Din al-Farj, Ibn Jozi, Allama Shahab al-Din Khafaji, Imam Qistalani, Imam Zarqani, Shaykh Abd al-Haq, Shaykh Mujaddid Alaf Thani, Allama Abd al-Ali Lucknawi, Shah Abd al-Aziz Delhwi and others have stated this in their books.

Hakim Tirmidhi has reported, "Shadow of the Prophet could not be seen under the Sun and the Moon." Abd-Allah Ibn Mubarak and Allama Ibn Jozi have reported from Hadrat Abd-Allah Ibn Abbas:

> The Prophet did not have shadow, neither while he was standing nor facing towards the Sun; whereas his *Nur* exceeded the light of the Sun and he did not stand in the light of a lamp whereas the shine of his *Nur* exceeded the shine of it (lamp).

Imam Jalal al-Din al-Suyuti has compiled a chapter on this subject in his book *Khasais al-Kubra*. Imam Qadi Iyad has stated in *Al-Shifa*, "Among the evidence of the Prophethood and signs of he being the Messenger of Allah is the point that has been stated, that is there was no shadow of the Prophet either in sunlight or in moonlight because the Prophet is *Nur*…." (30:695–713)

The Full Moon:
On absence of shadow casted by the Prophet's body

Qamar al-Tamam fi Nafi al-Zil an Sayid al-Anam (1296)

Question:
Did the Prophet's body cast a shadow or not? Reply and be rewarded.

Summarized Answer:
No doubt, the Prophet's body did not cast a shadow, and this is evident from hadiths and statement of imams. Imams, senior ulema and scholars have expressed this in their books and presented the supporting evidence. None of the ulema has ever stated any opposite view on this matter. It has only occurred in this era that individuals claiming to be Muslims have tried to attack the *fadal* and rebut the miracles of the Prophet. The faith of a Muslim is attached to his love with the Prophet and protection from the Hellfire is dependant on that love. One who loves remains busy in praise of the beloved. The praise of the Prophet has always been accepted by our seniors without much investigation of the source. Moreover, those opponents who deny (that the Prophet's body did not cast shadow) have no evidence in their support.

Non-availability of direct evidence has reasons. First, the Companions were so respectful in the court of the Prophet that they did not look around or focus anywhere else except what the Prophet was telling. Second, no one investigates a normal thing so none of the Companions might noticed it. Third, our last point does not necessitate that no body noticed it at all. Some of the Companions who were kids might notice it. You may note that most of the hadiths about the appearance of the Prophet have been reported from Hadrat Hind Ibn Abi Hala (who was a child) rather than senior companions. Fourth, thousands of the companions had very little time attending the Prophet's court. They came to Medina and left quickly (after meeting the Prophet). In such condition, it was not obvious that someone note the presence of the shadow since shadow is not easy to note in a crowd and the Prophet was mostly at a sheded place especially in the masjid. (30:715–36)

A Guidance for the Perplexed:
On absence of shadow of the Prophet's body

Huda al-Hayran fi Nafi al-Fay an Sayyid al-Akwan (1299)

Summary:
The author addresses this booklet to two Sunni ulema who had written incorrect fatwas on the matter of the shadow of the Prophet's body.

The required standard of evidence for different objects is not same. Some require clear, direct and absolute evidence while a hadith with weak *sanad* may be sufficient for some others. If a principle has been evident, there would be not need to demand evidence in support of connected matters. The honor and the highest status of the Prophet is clearly evident and as such demanding a stronger evidence is meaningless.

Where earlier imams and ulema have trusted a source in a matter, we do not have any reason to contradict. They were far better then us in knowledge, wisdom and analysis. We are nothing as compare to them. They have accepted the absence of the shadow casted by the Prophet's body.

The hadith "the Prophet's body did not cast shadow under the Sun and the Moon" was reported by Hakim Tirmidhi in *Nawadir al-Usul* from Zakwan. Imams and senior ulema has reproduced this in their books. (30:737–72)

Bibliography

Al-Rida, Imam Ahmad, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 1, 2006

———, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 2, 1991

———, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 3, 1992

———, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 4, 1993

———, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 5, 1993

———, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 6, 1994

———, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 7, 1994

———, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 8, 1995

———, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 9, 1996

———, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 10, 1996

———, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 11, 1997

———, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 12, 1997

———, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 13, 1998

———, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 14, 1998

———, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 15, 1999

———, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 16, 1999

———, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 17, 2000

———, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 18, 2000

———, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 19, 2001

———, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 20, 2001

———, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 21, 2002

———, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 22, 2002

———, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 23, 2003

———, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 24, 2003

———, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 25, 2003

———, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 26, 2004

———, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 27, 2004

———, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 28, 2004

———, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 29, 2005

———, *Al-Ataya al-Nabwiyyah fi al-Fatawa al-Ridwiyyah*, Lahore: Rida Foundation, vol. 30, 2005

———, *Hadam al-Nasrani wa Taqsim al-Imani*, in *Tohfa-i Hanafiyyah*, vol. 2, issue 4, 17–25, April 1900

Glossary and Other Lists

List of Complete Translations

Aajab al-Imdad fi Mukafarat-i Huquq al-Ibad in Book of Barred and Allowed Acts as *Muslim Rights*, Shaykh Abd al-Hadi al-Qadiri, Durban: Barkaatur-Raza Publications, 2005

Aitiqad al-Ahbab fi al-Jamil wa al-Mustafa wa al-Al wa al-Ashab in Book of Various Issues as *Faith of Friends*, Shaykh Abd al-Hadi Qadiri, Durban: Imam Ahmad Rida Academy

Ajud al-Qura li Talib al-Saha fi Ijarah al-Qura in Book of *Ijarah* as *The Best Hosting*

Al-Hadi al-Kaf fi Hukm al-Di'af in Book of Prayer as *Guidance on Weak Hadith*, Shaykh Abd al-Hadi al-Qadiri, Sufi Pages, 2025

Al-Zayl al-Manut li Risala al-Note in Book of Currency Exchange as *The Relevant Annexure*, Obaid-ur-Rehman, Karachi: Research Network, 2014 (ebook)

Al-Zulal al-Anqa min Bahr-i Sabqat al-Atqa in Book of Various Issues as *The Excellence of Sayyiduna Abu Bakr as-Siddiq*, Shaykh Abd al-Hadi Qadiri, Sufi Pages

Anwar al-Intibah fi Hal-i Nida-i Ya-Rasul-Allah in Book of Various Issues as *The Validity of Saying Ya RasulAllah*, Shaykh Abd al-Hadi Qadiri, Durban: Barkaatur-Raza Publications, 2005

Asma al-Arbayin fi Shafaat-i Sayyid al-Mahbobin in Book of Various Issues as *Forty Ahadith on the Intercession of the Holy Prophet Muhammad*, Shaykh Abd al-Hadi Qadiri, Durban: Barkaatur-Raza Publications, 2005

Badar al-Anwar fi Adab al-Asar in Book of Barred and Allowed Acts as *The Ethics of Relics*, Shaykh Abd al-Hadi al-Qadiri, Sufi Pages

Barkat al-Imdad la Hal al-Istamdad in Book of Barred and Allowed Acts as *Beacons of Hope*, Shaykh Abd al-Hadi al-Qadiri, Durban: Barkaatur-Raza Publications, 2005

Fatawa-i Karamat-i Ghauthiyyah in Book of Various Issues as *The Charismatic Exploits of the Ghawth*, Shaykh Abd al-Hadi al-Qadiri, Sufi Pages

Ghayat al-Tahqiq fi Imamat al-Ali wa al-Siddiq in Book of Various Issues as *The Vicegerency of Sayyiduna Ali and Sayyiduna Abu Bakr*, Shaykh Abd al-Hadi al-Qadiri, Sufi Pages

Hijb al-Awar an Makhdum-i Bihar in Book of International Relations as *A Stopper to the Insults*

Ityan al-Arwah li Diyarihim Baad al-Rawah in Book of Prayer as *Presence of the Soul after Death*, Shaykh Abd al-Hadi al-Qadiri, Sufi Pages

Izan al-Ajar fi Adhan al-Qabar in Book of Prayer as *The Permissibility of Reciting Adhan at the Graveside*, Shaykh Abd al-Hadi al-Qadiri, Durban: Barkaatur-Raza Publications, 2005

Jaman al-Taj fi Bayan al-Salat Qabal al-Mairaj in Book of Prayer as *Salah before Me'raj*, Shaykh Abd al-Hadi al-Qadiri, Sufi Pages

Kifl al-Faqih al-Fahim fi Ahkam-i Qirtas al-Dirahim in Book of Currency Exchange as *The Seal of Discerning Jurist*, Obaid-ur-Rehman, Lahore: Kitab Mahal, 2014

Kitab al-Mani wa al-Durar li-man Amad Money Order in Book of *Ijarah* as *The Provision of Wishes and Pearls*

Manba al-Muniyat bi Wasul al-Habib ila al-Arsh wa al-Rawyat Anam in Book of Various Issues as *Divine Vision*, Shaykh Abd al-Hadi Qadiri, Durban: Barkaatur-Raza Publications, 2005

Qamar al-Tamam fi Nafi al-Zil an Sayid al-Anam in Book of Various Issues as *The Shadowless Prophet*, Shaykh Abd al-Hadi Qadiri, Durban: Barkaatur-Raza Publications, 2005

Rad al-Kahat wa al-Waba bi Dawat al-Jiran wa Mawasat al-Fuqara in Book of Barred and Allowed Acts as *The Importance of Muslim Charity (Sadaqah)*, Shaykh Abd al-Hadi al-Qadiri, Durban: Barkaatur-Raza Publications

Salat al-Safa fi Nur al-Mustafa in Book of Various Issues as *The Prophet is Light*, Shaykh Abd al-Hadi al-Qadiri, Sufi Pages

Shumol al-Islam li Usul al-Rasuli al-Kiram in Book of Various Issues as *The Parents of the Exalted Prophet are Mumin*, Shaykh Abd al-Hadi Qadiri, Durban: Barkaatur-Raza Publications, 2005

Tadbir-i Falah wa Nijat wa Islah in Book of International Relations as *The Strategy for Success, Deliverance and Correction*

Tamhid-i Iman ba Ayat-i Quran in Book of Various Issues as *Preamble to Faith*, Abu Hassan,

Tard al-Afayi an Hami Hadin Rafa al-Rafai in Book of Various Issues as *The Pre-eminence of Sayyid Abd al-Qadir Jilani over Sayyid Ahmad Kabir al-Rifai*, Shaykh Abd al-Hadi Qadiri, Durban: Barkaatur-Raza Publications

Glossary

ahad al-badlayn	seisen by one party
Akhirah	the Hereafter
alim	one of ulema
amwal al-riba	assets in which riba is possible
aqd	contract
aqidin	contracting parties
aqil	person of sound mind
bay muq'ayda	barter sale; sale of goods for goods
bay mutlaq	simple sale; sale of goods for money
bay	sale
baligh	adult
batil	void
dayn	liability
fard	mandatory
fasid	invalid
fatwa	legal opinion
Fiqh	Jurisprudence
fuqaha	jurists
gunah	sin
hadith	individual saying of the Prophet Muhammad
Hadith	sayings of Prophet Muhammad being a source of law
hadith-i madal	a classification of hadiths
hadith-i maqtu	a classification of hadiths
hadith-i munkar	contradictory hadith
hadith-i munqata	a classification of hadiths
hadith-i mursal	a classification of hadiths
hadith-i shaz	rare hadith
halal	lawful
haram	prohibited, forbidden
hashiya	gloss, annotation
hawalah	assignment of debt, endorsement
hiba masha	gift of a part of an undivided asset
hiba	gift
hilah	legal device
Ijma	juristic consensus
illah	effective cause
ilm	knowledge, science
imam	leader, ritual prayer leader
inah	sale wherein seller buys back the thing at a lesser price
istalah	practice
istalahi money	thing in use as money because of practice

Istehsan	juristic preference
jayz	permissible
jihad	a war or struggle against unbelievers
jins	species
juzyat	cases
kaffarah	punitive alms
kafir	infidel, non-Muslim
karamat	miraculous act
khalifa	sufi deputy
khilaf-i ula	against the best practice
kulyat	general rules
mahr	dower
majlis	meeting, physical session
makruh	improper
makruh-i tahrimi	prohibitory improper
mal al-matqum	valuable asset
mal	asset
manqulat	transmitted sciences
maqulat	rational sciences
masafahat	the four books
mashaykh	jurists
matun	legal texts (in contrast to commentaries and glosses)
mithli	fungible
mozun	things sold by weight
mubah	allowed
muhaddithin	experts of Hadith sciences
mujtahid	a person accepted as an original authority in Islamic law
muqayada	sale of goods for goods, like barter
musalla	place from where prayer is lead
mustahab	recommended act
mutayan	determinate; ascertained
nau	kind
nikah	marriage
nisab	prescribed limit
note	currency note
nur	divine light
qabda	seisen; act of taking possession
qabdayn	mutual seisen; seisen by both parties
qada-i hajat	prayer for fulfilment of a wish
qadi	Muslim judge
qadr	measurement by volume or weight
qard	loan
qiblah	the direction towards Kaaba
Qiyas	juristic analogy

rasm al-mufti	juristic ethics
riba	interest; usury
riwaj	circulation
riwayat	citations
sadaqah fitr	mandatory alms payable at the end of Ramadan
salam	advance-payment sale
salat	the prayer performed five times daily
salf	early Muslims
sarf	original-money exchange
sharh	commentary
silsila	Sufi chain
suftaja	money-transfer loan
suk (pl. *sukuk*)	bond
Sunnah	Traditions of the Prophet as legal source
sunnan	a collection of hadith arranged according to subjects
surah	a chapter or section of Quran
takbir	announcing greatness of Allah
thaman	money, price
thiqa	trust-worthy or reliable person
urf	custom
urud	commodities
verse	clause or sentence from Quran
wajib	imperative
wasf	attribute; characteristic
wasi	executor
wilayah	authority
zakat	annual mandatory alms if value of certain assets exceeds

Units of weights, measures and currencies

ana	half-octant dirham coin
dinar	gold dinar coin
dirham	silver dirham coin
fals (pl. *fulus*)	copper or nickel coin
kodi	cowry shell as currency
mithqal	a unit of weight
paisa	Indian *fals*
qadh	a cubic measure small than *sa'a*
ratal	a cubic measure
ratti	a unit of weight
riyal	a currency used in Hejaz
sa'a	a cubic measure